AGENDA (timeframes are estimated for planning purposes)

I. Roll Call

II. Board Member Participation by Other Means

III. Public Participation (15 minutes) 8:15 – 8:30 a.m.

IV. Minutes of the March Ad Hoc Rules Committee of the Whole Meeting (pp. 2-4)

V.*Rules for Initial Review (Darren Reisberg, Winnie Tuthill, Shelley Helton) 8:30 – 8:45 a.m.
   A. Part 1 (Public Schools Evaluation, Recognition and Supervision) (pp. 5-30)
   B. Part 25 (Certification) (pp. 31-50)
   C. Part 226 (Special Education) (pp. 51-84)

VI.*Rules for Adoption (Darren Reisberg, Shelley Helton) 8:45 – 9:00 a.m.
   A. Part 180 (Health/Life Safety Code for Public Schools) (pp. 85-92)
   B. Part 228 (Transitional Bilingual Education) (pp. 93-154)
   C. Part 235 (Early Childhood Education Block Grant) (Memo p. 93; Rules pp. 155-163)

VII. Committee Agenda Planning/Additional Items

VIII. Adjourn

* Items listed with an asterisk (*) will be discussed in committee and action may be taken in the plenary session.
Chairman Jesse Ruiz called the meeting to order at 3:10 p.m. He noted that all Board members were present. There was no need for Board member participation by other means.

1. APPROVAL OF MINUTES
   Board member Vinni Hall moved the approval of the minutes of the Committee’s meeting of January 14, 2010, and Board member Melinda LaBarre seconded the motion. It was adopted unanimously, and the minutes were approved as presented.

2. PUBLIC PARTICIPATION
   There was no public participation.

3. RULES FOR INITIAL REVIEW
   The Chairman turned the meeting over to General Counsel Darren Reisberg to briefly summarize the proposals that the Board would be considering.

   - Part 24 (Standards for All Illinois Teachers): Mr. Reisberg noted that Assistant Superintendent Linda Tomlinson and Division Administrator Patrick Murphy would be available to answer questions. Mr. Reisberg indicated that the revised professional teaching standards would take effect July 1, 2012, and the current standards, including separate standards for language arts and technology, would remain in effect until that time. Additionally, the assessment of professional teaching, which all prospective teachers must pass in order to receive a certificate, would be revised to reflect the new standards.

   Dr. Tomlinson noted that the revised standards shift the focus from “all children” to standards that emphasize the needs of the individual child. The proposed revisions also focus on reading at all grade levels, including high school, and update the standards for technology.

   Board members had a robust discussion about the standards and their impact on and relevance to the evaluation of teacher preparation programs and of teachers’ practice in their classrooms. In particular, review is needed to determine how and to what extent the standards will be used to evaluate teacher performance, especially as the evaluation model shifts to one focused on student growth. The standards help to “ferret out” the type of dispositions that a teacher needs in order to be a successful, which will be informed further when the Board considers an educator code of ethics, expected to be presented as a
proposed rulemaking in May. Additionally, the standards should be shared with high school students who are considering a career in education.

- **Part 210 (Illinois Hope and Opportunity Pathways through Education Program [IHOPE]):**

  Mr. Reisberg summarized the proposed rules that govern the establishment of IHOPE programs by regional offices of education (ROEs) that are designed to enable dropouts to earn their high school diplomas. Mr. Reisberg noted that Jack Wuest, who had been instrumental in securing passage of legislation that created the program, spoke earlier in the day about the law and its impact.

  The proposed rules set forth the conditions upon which programs will be approved, thus qualifying them for the receipt of general state aid and in years in which an appropriation is provided, incentive grants. Mr. Reisberg indicated that the legislature failed to provide funding for incentive grants in FY 2010, and it is uncertain whether state funding other than general state aid will be available for FY 2011. He added, however, that $25 million have been requested for the program as part of the agency’s Race to the Top application. In response to a question from Board member Andrea Brown, staff clarified that any incentive grant received by an IHOPE program would be based on a formula (i.e., the proportion of dropouts in an ROE area to the statewide total) rather than on the needs of individual dropouts who may reside in the ROE area.

  During this presentation, Deputy Superintendent and Chief of Staff Susie Morrison introduced Monique Chism to the Board. Ms. Chism is the new division administrator for Innovations and Improvements, the division with the responsibility for administering the IHOPE program. Ms. Morrison also acknowledged staff member Marci Johnson, who had served the last several months as the division’s interim division administrator.

4. **RULES FOR ADOPTION:** General Counsel Reisberg summarized two sets of amendments for the Board’s adoption.

- **Part 35 (Mentoring Program for New Principals):** No public comment was received, and the amendments being presented were identical to the ones the Board considered in January. The proposed amendments address several different areas, including provisions for second-year principals to receive mentoring.

  Dr. Brown commented that the mentoring program may not be needed if the new principal preparation program goes into effect in 2013; however, Dr. Tomlinson noted that new principals will still need supports, although the supports may be different than those needed by principals who had not received the extensive preparation envisioned by the new program.

- **Part 145 (Temporary Relocation Expenses):** No public comment was received, and the amendments being presented were identical to the ones the Board considered in January. The proposed amendments clarify the assets to be considered when requesting a temporary relocation loan or grant and establish a renewal process so that agency staff can better project the amount of money needed for the program each fiscal year.

  While not related to any proposals currently before the Board for action, Chairman Ruiz informed the Ad Hoc Rules Committee that it had received a letter from the Latino Policy Forum regarding proposed amendments to Part 228 (Transitional Bilingual Education) and Part 235 (Early Childhood Block Grant). The group expressed its concern that the proposed amendments had not been brought back to the Board for adoption at this meeting (the public comment period ended February 15, 2010).
Superintendent Christopher Koch explained that the proposal had generated a substantial amount of public comment. Dr. Koch noted that although the comment had been analyzed, he recommended delaying presentation of the final proposal to the Board due to a misunderstanding among legislators and others about mandates placed on school districts, whether the requirements originate in law or in rules, and the potential cost of those mandates. He said that agency staff are cognizant of the burdens unfunded mandates place on school districts, particularly in the current economic climate. By delaying the Board’s adoption of the proposed amendments, staff will be able to more closely examine the effects of any proposed regulatory mandates, particularly their fiscal impact on school districts.

5. COMMITTEE AGENDA PLANNING/ADDITIONAL ITEMS
Mr. Reisberg indicated that a significant number of rules will be presented to the Board for its initial review in May. For the Board’s adoption will be Parts 228 and 235, which will include changes staff are recommending in response to public comment, and Part 180 (Health Life Safety Code for Public Schools), for which no public comment was received.

6. ADJOURNMENT
Board member David Fields moved that the meeting be adjourned. Vice-chair Chris Ward seconded the motion, and the meeting adjourned at 3:50 p.m.
TO: Illinois State Board of Education

FROM: Christopher A. Koch, Ed.D., State Superintendent of Education
      Linda Tomlinson, Assistant Superintendent
      Don Evans, Director of Human Resources
      Connie Wise, Assistant Superintendent
      Darren Reisberg, Deputy Superintendent and General Counsel


Materials: Recommended Rules

Staff Contacts: Linda Jamali, Gayle Johnson, Robin Lisboa, and Patrick Murphy, Division Administrators

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

Relationship to/Implications for the State Board’s Strategic Plan
Changes proposed in Section 1.88 relate to Strategic Goal 1 in that they hold accountable those educational entities that receive funds under Title II of the Elementary and Secondary Education Act (“the Act”) through the use of criteria to ensure that limited English proficient students are making adequate progress toward and attaining English language proficiency. Additionally, changes pertaining to district superintendents help ensure strong and consistent educational leadership of schools and thus relate to Goal 2. Other portions of the rulemaking consist of unrelated updates and clarifications, and none relates directly to the State Board’s goals.

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

Background Information
These amendments encompass numerous aspects of these rules, each of which is summarized under “Policy Implications” below.

Analysis and Implications for Policy, Budget, Legislative Action and Communications
Policy Implications: Each of the proposed changes is summarized below by topic in the order in which they appear in the rulemaking.
Student Information System. Section 1.75 is being amended to provide the process for a nonpublic school recognized under Part 425 to notify the agency if it wishes to participate in the Student Information System. This proposed change, which responds to P.A. 96-107, effective July 30, 2009, requires nonpublic schools to notify the agency by the start of the school year of its desire to participate, submit data in a format and in accordance with timelines established by the agency, and participate in any training that may be required.

Annual Measurable Achievement Objectives (English language learners). Section 1.88 of the rules sets forth the annual measurable achievement objectives (AMOAs) for educational agencies that use funds from Title III of the Act. Section 3122 of the Act requires each state agency receiving funding under Title III to develop AMAOs that relate to the recipient children’s development and attainment of English proficiency. AMAOs are required to include at least an objective addressing the percentage of students making progress toward proficiency in English, an objective addressing the percentage attaining proficiency, and an objective for making adequate yearly progress (AYP) with respect to students of limited English proficiency. Students’ scores on the ACCESS for ELLs® assessment are used in determining whether the first two objectives have been met, while their scores on the State assessment are used for determining AYP.

As part of federal monitoring conducted in 2009, the U.S. Department of Education (USDE) determined that the objectives set forth in Section 1.88 failed to address annual targets for increasing the number or percentage of an educational agency’s students who are making progress in learning English or attaining proficiency, as the Act requires. As a result, the USDE directed the agency to establish targets for the 2009-2010 school year, with the target level increasing in each subsequent school year. The rulemaking in this regard, however, was not possible until now due to the use of an outside contractor to analyze the ACCESS data, establish new targets based on that analysis, and present those recommendations to the Illinois Advisory Council on Bilingual Education and a group of other concerned individuals. Progress and proficiency determinations will be made based on the new targets. It is anticipated that these determinations will be shared with districts sometime in the fall after final ACCESS results are released in August.

For the progress objective, the target proposed for the 2009-10 school year is for each educational entity to have at least 91 percent (rather than 85 percent) of students increase their scores on ACCESS by at least one-half level, or .5, from the previous year in one of the four domains of listening, speaking, reading or writing that is measured. (The scale used for ACCESS is 1.0 to 6.0.) Additionally, the percentage of an educational entity’s students who progress by at least a half of level in a given year must increase by a minimum of 1 percent annually until 2016, when 97 percent of students must show a .5 gain from their previous year’s scores.

For the proficiency objective, the target will be decreased for the 2009-10 due to the agency’s change in the ACCESS criteria for determining English proficiency. Previously, students had to have a composite proficiency level of at least 4.0. Now students must have at least a 4.8 composite proficiency level and at least a 4.2 proficiency level in literacy (previously not required). Educational entities will have to show that at least 6 percent (rather than 10 percent) of their students have attained proficiency in school year 2009-10, with the percentage rising to 15 percent by school year 2016. Each year the percentage of students served by an educational entity who have achieved these scores must increase by either 1 or 2 percent. The agency will inform educational entities of the percentage increase to be used each year.
Targets for the progress and proficiency objectives, as proposed, will need to be submitted to USDE for review. This will occur as soon as the Board authorizes public comment on these amendments and may result in a need to revise the proposed targets prior to the Board’s adoption based upon the feedback received. Staff plan to submit the addendum with the targets to USDE by June 30, 2010, with the expectation that the agency will receive a response by August.

Superintendents and Principals. Over the last several years, the agency has grappled with the problem of interim superintendents. Interim superintendents are those individuals who are not employees of a school district but who serve as superintendents in a contractual position, either during the time in which the district conducts a search for a qualified person to fill the position or for an indefinite amount of time due to a district’s assertion that it is unable to find someone to serve in that capacity. Agency consultation about the advisability of this practice and the standards of enforcement applied at the regional level have varied, resulting in some districts receiving no penalty for continuing the practice and others seeking approval to use interim superintendents through the waiver process set forth in Section 2-3.25g of the School Code.

In order to provide consistency in the standards used, criteria are being proposed in Section 1.310 to distinguish a superintendent who is an employee of the district from one who is retained in a contractual position. These criteria require that a person employed as a superintendent minimally must hold a one-year contract, be employed on a full-time basis and be available daily, and contribute to the Teachers’ Retirement Fund.

The proposed amendments further require that a district not meeting these criteria be placed on “probation”, starting in the 2011-12 school year. The district will then be required to prepare and submit to the agency for approval a corrective action plan specifying how it will come into compliance with the rules by the end of the following school year. Districts that fail to come into compliance within that timeframe (which could be as long as two years) risk having their recognition status changed to “nonrecognized”.

The agency in April 2009 informed school districts and regional offices of education through the Superintendent’s Weekly Message that it would be pursuing regulatory or statutory changes to clarify school districts’ responsibilities for employing full-time superintendents. During the time that the proposed amendments were being drafted (2009-10 school year), the agency indicated that it would not change the recognition status of any district employing an interim superintendent. Since the rules have not yet been promulgated, districts will be informed that the moratorium would continue in the upcoming school year.

Evaluations of Teachers. P.A. 96-861, effective January 1, 2010, sets forth a new process to be phased in over the next several years for the evaluation of teachers and principals. In particular, the law removes the provision that evaluation plans be submitted to the agency for approval and Section 1.320 is being amended accordingly. Other rulemaking will be brought back for the Board’s consideration in the coming months to address the law’s provisions regarding student growth indicators and other factors to be considered in measuring teacher and principal performance, minimum requirements for teacher and principal evaluation plans, and model evaluation plans.

Additionally, the public act amended Section 2-3.25g of the School Code to prohibit waivers or modifications of the requirements for the evaluation process after the effective date of the provisions, which vary under the law. The proposed amendments to Section 1.100
acknowledge this prohibition, as well as make other nonsubstantive changes that are technical in nature.

**Qualifications of Bilingual Education Staff Assigned.** Sections 1.780, 1.781 and 1.782 set forth the requirements for staff who are employed in transitional bilingual education programs and in transitional programs of instructions, such as English as a second language programs. These requirements were last updated in 1989 and are out of date. The proposed changes align these rules with the requirements set forth in Part 25 and as such, do not introduce any new standards that bilingual education staff would have to meet.

Budget Implications: None.
Legislative Action: None needed.
Communication: Please see “Next Steps” below.

**Pros and Cons of Various Actions**
Promulgation of this group of changes will improve the expression of several requirements, as outlined above, and respond to recent statutory changes. Not making the changes in several sections pertaining to accountability and district superintendents would result in agency policy not being set forth in rule, as required by the Illinois Administrative Procedure Act. Also, the changes made in response to recently enacted statutes will update the rules and allow those regulated by them to more fully understand the requirements that apply.

**Superintendent’s Recommendation**
The State Superintendent recommends that the State Board of Education adopt the following motion:

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

- Public School Evaluation, Recognition and Supervision (23 Illinois Administrative Code 1),

including publication of the proposed amendments in the Illinois Register.

**Next Steps**
With the Board’s authorization, staff will submit the proposed amendments to the Administrative Code Division for publication in the Illinois Register to elicit public comment. Additional means, such as the Superintendent’s Weekly Message and the agency’s website, will be used to inform interested parties of the opportunity to comment on this rulemaking.
TITLE 23: EDUCATION AND CULTURAL RESOURCES
SUBTITLE A: EDUCATION
CHAPTER I: STATE BOARD OF EDUCATION
SUBCHAPTER a: PUBLIC SCHOOL RECOGNITION

PART 1
PUBLIC SCHOOLS EVALUATION, RECOGNITION AND SUPERVISION

SUBPART A: RECOGNITION REQUIREMENTS

Section
1.10 Public School Accountability Framework
1.20 Operational Requirements
1.30 State Assessment
1.40 Adequate Yearly Progress
1.50 Calculation of Participation Rate
1.60 Subgroups of Students; Inclusion of Relevant Scores
1.70 Additional Indicators for Adequate Yearly Progress
1.75 Student Information System
1.77 Educator Certification System
1.80 Academic Early Warning and Watch Status
1.85 School and District Improvement Plans; Restructuring Plans
1.88 Additional Accountability Requirements for Districts Serving Students of Limited English Proficiency Under Title III
1.90 System of Rewards and Recognition – The Illinois Honor Roll
1.95 Appeals Procedure
1.100 Waiver and Modification of State Board Rules and School Code Mandates

SUBPART B: SCHOOL GOVERNANCE

Section
1.210 Powers and Duties (Repealed)
1.220 Duties of Superintendent (Repealed)
1.230 Board of Education and the School Code (Repealed)
1.240 Equal Opportunities for all Students
1.242 Temporary Exclusion for Failure to Meet Minimum Academic or Attendance Standards
1.245 Waiver of School Fees
1.250 District to Comply with 23 Ill. Adm. Code 180 (Repealed)
1.260 Commemorative Holidays to be Observed by Public Schools (Repealed)
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**SUBPART G: STAFF QUALIFICATIONS**

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1.APPENDIX A    Professional Staff Certification
1.APPENDIX B    Certification Quick Reference Chart (Repealed)
1.APPENDIX C    Glossary of Terms (Repealed)
1.APPENDIX D    State Goals for Learning
1.APPENDIX E    Evaluation Criteria - Student Performance and School Improvement Determination (Repealed)
1. APPENDIX F  Criteria for Determination - Student Performance and School Improvement (Repealed)

1. APPENDIX G  Criteria for Determination - State Assessment (Repealed)


SUBPART A: RECOGNITION REQUIREMENTS
Section 1.75 Student Information System

a) Each school district shall participate in the Student Information System (SIS) established by the State Board of Education by entering data on the students served, their characteristics, their particular needs, the programs in which they participate, and their academic achievement to the Board in a format specified by the State Superintendent and according to the timelines applicable to the system.

b) In accordance with Section 20 of the P-20 Longitudinal Education Data System Act, any nonpublic school that is recognized under 23 Ill. Adm. Code 425 may elect to participate in the longitudinal data system by disclosing data to the State Board for one or more of the purposes of the Act. [105 ILCS 13/20]

1) A nonpublic school wishing to participate in the SIS shall notify the State Superintendent of Education no later than the start of the school year in which participation will begin. Failure to meet the notification deadline shall delay participation until the following school year.

2) Data submitted to the SIS shall be in a format and in accordance with timelines established by the State Superintendent.

3) Representatives from participating nonpublic schools shall complete any training relative to the SIS that the State Superintendent may require.

(Source: Amended at 34 Ill. Reg. _____, effective _____________)

Section 1.88 Additional Accountability Requirements for Districts Serving Students of Limited English Proficiency Under Title III

This Section implements section 3122 of the No Child Left Behind Act of 2001 (NCLB) (20 USC 6842), which requires that states establish “Annual Measurable Achievement Objectives” (AMAOs) for educational agencies that use funds provided under Title III of the Act to serve students of limited proficiency in English and hold those entities accountable for meeting those objectives. Further, this Section implements section 3113(b)(5) of NCLB (20 USC 6823), which requires states to hold local educational agencies and schools accountable for meeting all the objectives described in NCLB section 3122.

a) The three distinct AMAOs address progress, proficiency, and adequate yearly progress (AYP), respectively, in connection with students taking the annual
English language proficiency assessment examination prescribed by the State Board of Education in 23 Ill. Adm. Code 228 (Transitional Bilingual Education). These objectives shall apply at the district or cooperative level, as applicable, i.e., based on the test scores achieved by all the students served by each entity that receives Title III funding. In order to “meet AMAOs” for any given year, a district or cooperative must achieve all of the applicable objectives described in this subsection (a).

1) “Progress” relates to the percentage of students whose scores on a given administration of the English language proficiency assessment examination increased in comparison to their previous scores by at least .5 of a level of attainment on any one of the four domains (listening, speaking, reading, and writing) or reflect the maximum attainable level in any one of the four domains.

A) The Illinois annual progress target objective shall be 91.85 percent of students showing progress for school year 2009-10, which shall increase to 97 percent by school year 2015-16.

B) The percentage of a district’s or cooperative’s students who show progress shall increase by a minimum of 1 percent each year.

C) The provisions of this subsection (a)(1) and shall apply provided that the number of students tested is no fewer than 45.

D) A student’s score shall be counted for this purpose only if he or she has participated in at least two administrations of the State-prescribed English language proficiency assessment examination. The scores of students tested but not being served in bilingual education programs shall not be counted for this purpose.

2) “Proficiency” relates to the percentage of students who attained the scores identified by the State Board of Education (ISBE) as demonstrating English language proficiency and eligibility to exit bilingual education.

A) The Illinois annual proficiency target objective shall be six 10 percent of students attaining English proficiency for school year 2009-10, with the target increasing to 15 percent by school year 2015-16.
B)  The percentage of the district’s or cooperative’s students attaining proficiency shall increase by 1 or 2 percent each year. The State Superintendent shall inform districts and cooperatives annually of the percentage to be used.

C)  The provisions of this subsection (a)(2) shall apply provided that the number of students tested is no fewer than 45.

D)  The scores of students tested but not being served in bilingual education programs shall not be counted for this purpose.

3)  “Adequate yearly progress” or “AYP” has the meaning given to that term in Section 1.40 of this Part, except that, for purposes of this Section, AYP is specific to the scores earned on the reading and mathematics portions of the State assessment by students with limited proficiency in English, to their participation in the State assessment, and to their attendance or graduation rate, as applicable. The AYP objective shall apply only when the number of students served is treated as a subgroup under Section 1.60(a) of this Part.

b)  In order to avoid penalizing districts and cooperatives for the decision bias that is associated with drawing inferences from a small distribution, a 95 percent “confidence interval” shall be applied to the data involved in each calculation discussed in subsection (a) of this Section. (A confidence interval is a mathematical approach designed to compensate for the unreliability of data derived from consideration of small groups.)

c)  The scores of all students served by a cooperative shall be analyzed as one group for purposes of determining whether the cooperative has met AMAOs in a given year. The determination for a cooperative shall also apply to each of its member districts.

d)  Section 3122(b) of NCLB requires entities funded under Title III that fail to reach AMAOs for two consecutive years to prepare improvement plans designed to ensure that the entities will meet those objectives in the future. Each entity that is subject to this requirement shall submit its plan no later than six months after it receives notification from ISBE of its failure to meet AMAOs for the second consecutive year. Should a district or cooperative elect not to apply for Title III funding in the subsequent year, it shall be required to submit an improvement plan before it next applies, unless data on the performance of its students demonstrate
that the entity met AMAOs in the most recent year preceding its new application for funding. ISBE shall not approve an application for Title III funds from an entity that is subject to this requirement until its plan has been submitted.

e) When an entity funded under Title III has failed to reach AMAOs for four consecutive years, ISBE shall, as required by section 3122(b)(4) of NCLB:

1) require the entity to modify its curriculum, program, and method of instruction; or

2) make a determination regarding the entity’s continued receipt of funds under Title III and require the entity to replace educational personnel relevant to the entity’s failure to meet the achievement objectives.

f) The sanctions chosen pursuant to subsection (e) of this Section shall be identified based upon ISBE’s analysis of the factors that prevented the entity from attaining the AMAOs, including those factors presented in the improvement plan submitted in accordance with subsection (d) of this Section. In particular, ISBE shall deny continued Title III funding to an entity that:

1) fails or refuses to serve students according to relevant legal and/or regulatory requirements; or

2) prolongs or repeats instances of noncompliance to a degree that indicates an intention not to comply with relevant requirements.

(Source: Amended at 34 Ill. Reg. _____, effective _____________)

Section 1.100 Waiver and Modification of State Board Rules and School Code Mandates

a) As authorized in Section 2-3.25g of the School Code [105 ILCS 5/2-3.25g], a school district or independent authority established pursuant to Section 2-3.25f of the School Code [105 ILCS 5/2-3.25f], a joint agreement made up of school districts, or a Regional Superintendent of Schools applying on behalf of a school or program operated by the regional office of education, or, as authorized under Sections 13A-5 and 13A-10 of the School Code [105 ILCS 5/13A-5 and 13A-10] with respect to regional safe schools programs, the governing board of an Intermediate Service Center operating such a program may petition for:
1) State Board approval of waivers or modifications of State Board of
Education rules and of modifications of School Code mandates, which
may be requested to allow a district to meet the intent of the rule or
mandate in a more effective, efficient or economical manner or when
necessary to stimulate innovation or to improve student performance;
and/or

2) General Assembly approval of waivers of School Code mandates, which
may be requested only as necessary to stimulate innovation or improve
student performance.

b) "The School Code" comprises only those statutes compiled at 105 ILCS 5.

1) Waivers from State Board rules or School Code mandates pertaining to
those areas enumerated in Section 2-3.25g(b) of the School Code special
education, teacher certification, or teacher tenure and seniority are not
permitted [105 ILCS 5/2-3.25g(b)] (Section 2-3.25g of the School Code).

A) For the purposes of this subsection (b)(1), provisions Waivers of
mandates contained in Section 5-1 of the School Code [105 ILCS
5/5-1] or in Section 5-2.1 of the School Code [105 ILCS 5/5-2.1]
also shall not be requested. Further, pursuant to Section 2-3.25g of
the School Code, waivers may not be requested from compliance with
any provision of the School Code or the rules of the State
Board of Education that reflect or implement the No Child Left Behind Act of 2001 (Public Law 107-110), which shall include all requirements for:

i) the entities to be held accountable for the achievement of their students;

ii) the participation of students in the various forms of the State assessment;

iii) the timing of administration of the State assessment;

iv) the use of students’ scores on the State assessment in describing the status of schools, districts, and other accountable entities;
v) the use of indicators other than test scores in determining the progress of students;

vi) the required qualifications of paraprofessionals;

vii) the placement of schools not making adequate yearly progress on academic early warning status or academic watch status, and the results to schools and districts that follow from such placement;

viii) the district’s responsibility to prepare revised school and/or district improvement plans in response to placement on academic warning or watch status;

ix) the appointment of school or district improvement panels for schools or school districts on academic watch status;

x) the use of State interventions according to the timeline set forth in Section 2-3.25f of the School Code; and

xi) the appeals process set forth in Section 1.95 of this Part, and the authority of the State Board of Education to make final determinations on such appeals.

B) Waivers or modifications of mandates pertaining to the use of student performance data and performance categories for teacher and principal evaluations, as required under Article 24A of the School Code [105 ILCS 5/Art. 24A], are not permitted after the applicable implementation date specified in Section 24A-2.5 of the School Code [105 ILCS 5/24A-2.5].

2) Waivers of mandates contained in Section 5-1 of the School Code [105 ILCS 5/5-1] or in Section 5-2.1 of the School Code [105 ILCS 5/5-2.1] also shall not be requested.

c) Each application for a waiver or modification shall provide the following, on a form supplied by the State Board of Education.
1) Identification of the rules or mandates involved, either by quoting the exact language of or by providing a citation to the rules or mandates at issue. Applicants unable to determine the exact language or citation may obtain a copy of, or citation to, the rules or mandates involved by contacting the State Board of Education Legal Department by mail at 100 North First Street, Springfield, Illinois, 62777-0001, by email at waivers@isbe.net, or by telephone at 217-782-5270.

2) Identification as to the specific waivers and/or modifications sought. For modifications, the specific modified wording of the rules or mandates must be stated.

3) Identification as to whether the request is for an initial waiver or modification or for the renewal of a previously approved request. Renewals of waivers and modifications of Section 27-6 of the School Code [105 ILCS 5/27-6] shall be subject to the requirements of subsection (l) of this Section.

4) For requests based upon meeting the intent of the rule or mandate in a more effective, efficient, or economical manner, a narrative description that sets forth:

A) the intent of the rule or mandate to be achieved;

B) the manner in which the applicant will meet that intent;

C) how the manner proposed by the applicant will be more effective, efficient or economical; and

D) if the applicant proposes a more economical manner, a fiscal analysis showing current expenditures related to the request and the projected savings that would result from approval of the request.

5) If the request is necessary for stimulating innovation or improving student performance, the request must include the specific plan for improved student performance and school improvement upon which the request is based. This plan must include a description of how the applicant will determine success in the stimulation of innovation or the improvement of student performance.
6) If the request is for a waiver of the administrative expenditure limitation established by Section 17-1.5 of the School Code [105 ILCS 5/17-1.5], the request must include the amount, nature, and reason for the requested relief and all remedies that have been exhausted to comply with the administrative expenditure limitation and shall otherwise comply with Section 17-1.5(d) of the School Code.

7) The time period for which the waiver or modification is sought. Pursuant to Section 2-3.25g of the School Code, this time period may not exceed five years, except for requests made pursuant to subsection (c)(6) of this Section, which may not exceed one year (see Section 17-1.5(d) of the School Code), and except for requests for relief from the mandate set forth in Section 27-6 of the School Code, which may not exceed two years.

8) A description of the public hearing held to take testimony about the request from educators, parents and students, which shall include the information required by Section 2-3.25g of the School Code.

9) An assurance stating the date of the public hearing conducted to consider the application and, if applicable, the specific plan for improved student performance and school improvement; affirming that the hearing was held before a quorum of the board or before the regional superintendent, as applicable, and that it was conducted as prescribed in Section 2-3.25g of the School Code; and stating the date the application (and, if applicable, the plan) was approved by the local governing board or regional superintendent.

d) Each applicant must attach to the application a copy of the notice published in a newspaper of general circulation and a copy of the written notifications provided to the applicant's collective bargaining agent and to those State legislators representing the applicant, each of which must comply with the requirements of Section 2-3.25g of the School Code.

e) Applications must be sent by certified mail, return receipt requested, and addressed as specified on the application form.

f) Applications must be postmarked not later than 15 calendar days following the local governing board’s approval. Applications addressed other than as specified on the application form shall not be processed.
Applications for the waiver or modification of State Board rules or for the modification of School Code mandates shall be deemed approved and effective 46 calendar days after the date of receipt by the State Board of Education unless disapproved in writing. Receipt by the State Board shall be determined by the date of receipt shown on the return receipt form, except in the case of an incomplete application.

1) An applicant submitting an incomplete application shall be contacted by staff of the State Board regarding the need for additional information and the date by which the information must be received in order to avoid the application’s return as ineligible for consideration.

2) The 45-day response time referred to in this subsection (g) shall not commence until the applicant submits the additional material requested by the State Board.

3) Each application that has not been made complete by the date identified in accordance with subsection (g)(1) of this Section shall be ineligible for consideration and shall be returned to the applicant with an explanation as to the deficiencies.

The State Board may disapprove a request for the waiver or modification of State Board rules or for the modification of School Code mandates if the request:

1) is not based upon sound educational practices;

2) endangers the health or safety of students or staff;

3) compromises equal opportunities for learning;

4) does not address the intent of the rule or mandate in a more effective, efficient or economical manner or does not have improved student performance as a primary goal.

Disapproval of an application for a waiver or modification of a State Board rule or for a modification of a School Code mandate shall be sent by certified mail to the applicant no later than 45 calendar days after receipt of the application by the State Board. An applicant wishing to appeal the denial of a request may do so within 30 calendar days after receipt of the denial letter by sending a written
appeal by certified mail to the Illinois State Board of Education, Rules and
Waivers Unit, 100 North First Street, S-493, Springfield, Illinois 62777-0001 or
by email to waivers@isbe.net. The written appeal shall include the date the local
governing board approved the original request, the citation of the rule or School
Code section involved, and a brief description of the issue. Appeals of denials
shall be submitted to the General Assembly in the semiannual report required
under Section 2-3.25g of the School Code.

j) The State Superintendent of Education shall periodically notify school districts
and other potential applicants of the date by which applications must be
postmarked in order to be processed for inclusion in the next report to the General
Assembly. Each application will be reviewed for completeness. Complete
applications shall be submitted to the General Assembly in the next report.
Incomplete applications shall be treated as discussed in subsections (g)(1) and
(g)(3) of this Section.

k) The State Superintendent of Education shall notify Regional Superintendents of
Schools of the disposition of requests for waivers or modifications submitted by
school districts located within their regions.

l) The limitation on renewals established in Section 2-3.25g(e) of the School Code
shall apply to each waiver or modification of Section 27-6 of the School Code that
is approved on or after January 1, 2008. Once an eligible applicant has received
approval for a waiver or modification of that Section on or after January 1, 2008,
any request submitted by that applicant for a subsequent time period shall be
considered a renewal request, regardless of the rationale for the request or the
schools or students to be affected. No applicant shall receive approval for more
than two renewals after January 1, 2008, and no applicant shall receive approval
for more than six years cumulatively beginning with that date.

(Source: Amended at 34 Ill. Reg. ____, effective _____________)

SUBPART C: SCHOOL DISTRICT ADMINISTRATION

Section 1.310 Administrative Qualifications and Responsibilities

Administrators and supervisors shall be appropriately certificated, meeting the requirements
stated in Section 21-7.1 of the School Code [105 ILCS 5/21-7.1] and Section 1.705 of this Part.
a) Chief school business officials, effective July 1, 1977, shall be appropriately certificated, meeting the requirements stated in Section 21-7.1 of the School Code.

b) Department chairpersons who are required to supervise and/or evaluate teachers shall meet the applicable requirements of Section 1.705 of this Part. (See also Section 21-7.1 of the School Code.) This regulation shall apply only to those individuals first assigned to this position on or after September 1, 1978.

c) **Superintendents and Principals Divided Service**

1) A superintendent minimally shall hold a one-year contract that allows him or her to be available on a daily basis and shall be employed in a manner that requires him or her to contribute to the Teachers’ Retirement Fund pursuant to 40 ILCS 5/16-106. Except as provided in subsection (c)(2) and (c)(3) of this Section, a superintendent shall be employed on a full-time basis.

2) An administrator, i.e., a superintendent or principal, may be employed by two school districts or serve in two professional capacities provided that full-time equivalency results in a maximum of one full-time position.

3) In school districts with an enrollment of 100 or fewer, an individual may serve as superintendent/principal and teach (up to 1/2 day).

4) Beginning in the 2011-12 school year, a school district that fails to meet the requirements of this subsection (c) shall have its recognition status designated as “On Probation”. (See Section 1.20 of this Part.) Any corrective action plan developed pursuant to Section 1.20(f) shall provide specific remedies to allow the school district to come into compliance with this subsection (c) prior to the end of the school year following the school year in which the deficiency was identified.

(Source: Amended at 34 Ill. Reg. ____, effective ______________)

**Section 1.320 Evaluation of Certified Staff in Contractual Continued Service**

Each school district shall develop and submit to the State Board of Education an evaluation plan (the Plan) for the evaluation of all certified school district employees in contractual continued service. Where cooperative educational programs operate between or among school districts, or are
operated by Regional Superintendents of Schools, pursuant to Sections 3-15.14, 10-22.31 and/or 10-22.31a of the School Code [105 ILCS 5/3-15.14, 10-22.31, and/or 10-22.31a], the Plan shall be developed submitted by the administrative agent who is the fiscal and legal agent for the cooperative program, or the governing board, or the board of control of the entity. In this Section all such entities are included in the term "school district".

a) The Plan shall conform to the requirements of Article 24A of the School Code [105 ILCS 5/Art. 24A], and shall contain assurances that the school district shall involve teachers in the development of the Plan or that, where applicable, develop the Plan was developed in cooperation with the exclusive bargaining representatives.

b) Whenever any substantive change is made to a Plan, the revised Plan shall be submitted to the State Board of Education for review and comment, and the district shall at the same time provide a copy of any such revised Plan to the exclusive bargaining representatives (Section 24A-4 of the School Code).

1) For purposes of this Section, a “substantive change” shall mean any change to:
   
   A) the description of the duties and responsibilities of each teacher and the standards to which the teacher is expected to perform (these descriptions may be individualized or extend to a class of teachers);
   
   B) the schedule for evaluations;
   
   C) the classification or classifications of qualified administrators authorized to conduct evaluations; and/or
   
   D) the definitions of “excellent”, “satisfactory”, or “unsatisfactory”.

2) A “substantive change” shall not include a change in the names of individual administrators authorized to conduct evaluations.

c) The State Board of Education shall review each Plan or revision submitted pursuant to subsection (b) of this Section to determine whether the Plan conforms to the requirements of Article 24A and may provide advisory comments on the Plan’s procedures for evaluation. The State Board of Education shall reject as unacceptable those Plans or revisions that do not conform with Article 24A of the
School Code—A school district, upon rejection of its Plan, shall revise its Plan to conform with Article 24A of the School Code and shall promptly resubmit the revised Plan to the State Board of Education.

b)(d) Consulting Teachers

1) The school official responsible for selecting a consulting teacher when required under Section 24A-5(j) 24A-5(g) of the School Code must undertake a diligent effort to identify a consulting teacher, which effort must include, but should not be limited to:

   A) contacting qualified teachers within the school district;
   B) requesting the regional superintendent of schools to supply a roster of qualified consulting teachers; and
   C) requesting the exclusive bargaining agent for the school district to supply a roster of qualified consulting teachers.

2) If the school official cannot identify a qualified consulting teacher after completing the effort described in subsection (d)(1) of this Section, the State Board of Education shall supply a qualified consulting teacher.

3) If the consulting teacher becomes unavailable during the course of a remediation plan, a new consulting teacher shall be selected in the same manner as the initial consulting teacher. The remediation plan shall be amended as necessary upon consultation with the new consulting teacher for the balance of the remediation period. The consulting teacher shall be informed, through conferences with the evaluator qualified administrator (or an assistant principal in a school district having a population exceeding 500,000) and the teacher under remediation, of the results of the periodic evaluations conducted pursuant to Section 24A-5(k) 24A-5(h) of the School Code in order to continue to provide assistance to the teacher under a remediation plan.

(Source: Amended at 34 Ill. Reg. _____, effective _____________)

SUBPART G: STAFF QUALIFICATIONS

Section 1.780 Standards for Teachers in Bilingual Education Programs
a) No individual shall be assigned as a bilingual education teacher in prekindergarten, kindergarten or any of Grades 1-12 unless he or she:

1) holds a certificate that is valid for the grade levels of the students to be served and an endorsement or statement of approval for bilingual education that is specific to the language of instruction, issued pursuant to Section 1.781 of this Part; or

2) holds a transitional bilingual certificate specific to the language of instruction, issued pursuant to 23 Ill. Adm. Code 25.90; or

3) holds a Visiting International Teaching Certificate that is valid for the grade levels of the students to be served and meets the requirements set forth at 23 Ill. Adm. Code 25.92(i); or

4) was employed in a state-approved bilingual education program prior to September 1, 1985, and continues to hold a certificate that is valid for the grade level or levels of the students to be served.

b) No individual shall be assigned as a teacher of English as a Second Language (ESL) in prekindergarten, kindergarten or any of Grades 1-6 unless he or she:

1) holds a certificate that is valid for the grade levels of the students to be served and an endorsement or statement of approval for ESL or English as a New Language (ENL), issued pursuant to Section 1.782 of this Part; or

2) holds a certificate that is valid for the grade levels of the students to be served and an endorsement or statement of approval for bilingual education; or

3) holds a transitional bilingual certificate issued pursuant to 23 Ill. Adm. Code 25.90; or

4) holds a Visiting International Teaching Certificate that is valid for the grade levels of the students to be served and meets the requirements set forth at 23 Ill. Adm. Code 25.92(i); or
5) was employed in an approved bilingual education program prior to September 1, 1985, and continues to hold a certificate that is valid for the grade level or levels of the students to be served.

c) No individual shall be assigned as a teacher of English as a Second Language in any of Grades 7-12 unless he or she:

1) holds a certificate that is valid for the grade levels of the students to be served and an endorsement or statement of approval for ESL or ENL, issued pursuant to Section 1.782 of this Section; or

2) holds a Visiting International Teaching Certificate that is valid for the grade levels of the students to be served and meets the requirements set forth at 23 Ill. Adm. Code 25.92(i).

d) Additional requirements for teachers in grades 5 through 8 serving students with home languages other than English shall be as set forth in Section 1.720 of this Part.

e) Additional requirements for teachers in State-supported early childhood programs serving students with home languages other than English shall be as set forth in Section 228.35 of rules governing Transitional Bilingual Education (23 Ill. Adm. Code 228).

a) Bilingual teachers and teachers of English as a Second Language may provide instruction in bilingual education programs that are approved in accordance with The School Code (Ill. Rev. Stat. 1983, ch. 122, pars. 14C-1 et seq.) and 23 Ill. Adm. Code 228, Transitional Bilingual Education.

b) Personnel who meet the requirements in Section 1.781 for bilingual teachers may teach English as a Second Language in Grades K-6 and all other subject areas of a bilingual education program in the language for which they hold an approval. Bilingual teachers may teach English as a Second Language in Grades 7-12 upon completion of the requirements in Section 1.782.

c) Personnel who meet the requirements in Section 1.782 for teaching English as a Second Language may teach only in this capacity.

(Source: Amended at 34 Ill. Reg. _____, effective ______________)
Section 1.781 Requirements for Bilingual Education Teachers in Prekindergarten, Kindergarten and any of Grades 1-12 K-12

a) Bilingual education teachers employed in an approved bilingual education program prior to September 1, 1985 are not subject to the requirements set forth below, provided they continue to hold a certificate issued prior to that date and valid for their current teaching role. Bilingual education teachers whose Transitional Bilingual Certificate will lapse between June 30, 1985 and June 30, 1987 shall have until September 1, 1988 to achieve compliance with the standards set forth below.

b) On September 1, 1985 and thereafter, bilingual education teachers in state-approved bilingual education programs must meet one of the following two requirements:

1) Possess a Transitional Bilingual Certificate issued in accordance with 23 Ill. Adm. Code 25.90; or

2) Possess a valid Illinois teacher certificate and either an endorsement or possess a statement of approval which shall be issued by the State Board of Education when evidence is presented demonstrating that the following requirements have been met:

   A) Verification of reading, writing, grammar skills, and speaking proficiency in the non-English language for which the endorsement or approval is sought (either graduating from an institution where the non-English language was the medium of instruction or through passage of the test of language proficiency in that language); and—Verification must be provided by a recognized Illinois teacher education institution whose assessment procedures have been approved pursuant to Section 25.90(b) of 23 Ill. Adm. Code 25, Certification.

   and either

   B) 18 semester hours distributed among the following areas and including 100 clock hours of clinical experience or 3 months teaching experience in a bilingual education program:

   i) Foundations of bilingual education,
ii) (ii) Assessment of the bilingual student,

iii) (iii) Methods and materials for teaching limited English proficient (LEP) students in bilingual programs,

iv) (iv) Methods and materials for teaching English as a Second Language, and

v) (v) Cross-cultural studies for teaching LEP students; or

C) Hold a Visiting International Teaching Certificate that is valid for the grade levels of the students to be served and meets the requirements set forth at 23 Ill. Adm. Code 25.92(i).

(C) Two years teaching experience in a state/approved bilingual program prior to September 1, 1985, and 75 clock hours of experience acquired prior to September 1, 1985, in conferences or workshops required by Section 228.50 of the rules governing Transitional Bilingual Education (23 Ill. Adm. Code 228.50), distributed among the following areas:

(i) Foundations of bilingual education

(ii) Assessment of the bilingual student

(iii) Methods and materials for teaching LEP students in bilingual programs

(iv) Methods and materials for teaching English as a Second Language

(v) Cross-cultural studies for teaching LEP students

(Source: Amended at 34 Ill. Reg. _____, effective _____________)

Section 1.782 Requirements for Teachers of English as a Second Language in Prekindergarten, Kindergarten and any of Grades 1-12 K-12
a) Bilingual teachers presently teaching English as a Second Language and employed in an approved bilingual education program prior to September 1, 1985 are not subject to the requirements set forth below, provided they continue to hold a certificate issued prior to that date and valid for their current teaching role. Bilingual teachers in Grades 7-12 whose Transitional Bilingual Certificate will lapse between June 30, 1985 and June 30, 1987 shall have until September 1, 1988 to achieve compliance with the standards set forth below.

b) On September 1, 1985 and thereafter, teachers of English as a Second Language in state-approved approved bilingual education programs must meet one of the following two requirements:

1) Possess a special K-12 certificate Standard Special Certificate endorsed for teaching English as a Second Language, issued by the State Board of Education in accordance with 23 Ill. Adm. Code 25; or

2) Possess a valid Illinois teaching certificate and either an endorsement or possess a statement of approval which shall be issued by the State Board of Education when evidence is presented of having completed 18 semester hours distributed among the following areas and including 100 clock hours of clinical experience or 3 months experience teaching English as a Second Language:

   A) Linguistics (including English and non-English phonology and syntax),

   B) Theoretical foundations of teaching English as a Second Language,

   C) Assessment of the bilingual student,

   D) Methods and materials for teaching English as a Second Language, and

   E) Cross-cultural studies for teaching LEP students; or

3) Hold a Visiting International Teaching Certificate that is valid for the grade levels of the students to be served and meets the requirements set forth at 23 Ill. Adm. Code 25.92(i).

(Source: Amended at 34 Ill. Reg. _____, effective _____________)
TO: Illinois State Board of Education
FROM: Christopher A. Koch, Ed.D., State Superintendent of Education
Linda Tomlinson, Assistant Superintendent
Darren Reisberg, Deputy Superintendent and General Counsel

Agenda Topic: Proposed Amendments for Initial Review: Part 25 (Certification)

Materials: Recommended Rules

Staff Contacts: Linda Jamali, Division Administrator

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

Relationship to/Implications for the State Board’s Strategic Plan
This proposal relates to Goal 2 (highly prepared and effective teachers), as it addresses the testing procedures for candidates seeking teacher certification.

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

Background Information
This group of proposed revisions to several sections of Subpart I of Part 25 respond, in part, to feedback that staff in the Division of Educator Certification had been receiving from the field regarding the test of basic skills. The basic skills test addresses four areas (reading, language arts, mathematics, and writing). Beginning with the September 2010 administration of the basic skills test, an examinee will be able to test in one or several of the areas. In these instances, an examinee might pass one or more areas but not all. While the examinee doing so would not have passed the test of basic skills, he or she also should be able to rely on passing scores in individual subject areas without having to take the entire test again.

For this reason, Sections 25.710 and 25.720 are being amended to score each subject area of the test of basic skills separately as a “subtest” and to allow individuals to “bank” their passing scores in any area for future use. Section 25.720(b)(6) also clarifies that the testing limit of five (which took effect in January) applies to the test of basic skills as a whole rather than to individual subtests. In other words, an examinee may not continue to retake an individual subtest if doing so would mean that he or she has participated in the test of basic skills more than five times. Examinees will see the results of these changes in score reports issued after September 30, 2010 (i.e., those issued for the September administration of the test of basic skills).
Section 25.765 also is being amended to allow institutions of higher education with educator preparation programs to have access to any of the results (i.e., pass or fail) of tests taken by examinees. This change is being recommended for a couple of reasons. Institutions can review the candidates’ results to help them prepare for, and be successful taking, the required tests. Additionally, the institution may monitor a candidate’s activity to determine if he or she is nearing the five-take limit. Accessing all test results also will allow the institution to analyze those to determine whether a candidate should be considering career paths other than education.

Several new language proficiency tests are available for those seeking a transitional bilingual education certificate or endorsement, and these are noted in Section 25.710. Two other revisions proposed in Sections 25.720(b)(3) and (c) incorporate changes pertaining to the basic skills test and content-area tests for out-of-state candidates seeking Illinois certification. These changes are the result of P.A. 96-689, effective August 25, 2009.

Analysis and Implications for Policy, Budget, Legislative Action and Communications
Policy Implications: See information under “Background” above.
Budget Implications: None.
Legislative Action: None needed.
Communication: Please see “Next Steps” below.

Pros and Cons of Various Actions
Promulgation of this group of changes will improve procedures related to certification testing by streamlining the process for those individuals taking the basic skills test and helping educator preparation programs use available data to better assist candidates, both in advance of testing and in making program selections. Further, the changes result in agency policy being set forth in rule, as required by the Illinois Administrative Procedure Act. Also, the changes made in response to the recently enacted law will update the rules and allow those regulated by them to more fully understand the requirements that apply.

Superintendent’s Recommendation
The State Superintendent recommends that the State Board of Education adopt the following motion:

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

   Certification (23 Illinois Administrative Code 25),

   including publication of the proposed amendments in the Illinois Register.

Next Steps
With the Board’s authorization, staff will submit the proposed amendments to the Administrative Code Division for publication in the Illinois Register to elicit public comment. Additional means, such as the Superintendent’s Weekly Message and the agency's website, will be used to inform interested parties of the opportunity to comment on this rulemaking.
TITLE 23: EDUCATION AND CULTURAL RESOURCES
SUBTITLE A: EDUCATION
CHAPTER I: STATE BOARD OF EDUCATION
SUBCHAPTER b: PERSONNEL

PART 25
CERTIFICATION

SUBPART A: DEFINITIONS

Section
25.10 Accredited Institution

SUBPART B: CERTIFICATES

Section
25.11 New Certificates (February 15, 2000)
25.15 Standards for Certain Certificates (Repealed)
25.20 Requirements for the Elementary Certificate (Repealed)
25.25 Requirements for “Full” Certification
25.30 Endorsement in Teacher Leadership
25.35 Acquisition of Subsequent Certificates; Removal of Deficiencies (Repealed)
25.37 Acquisition of Subsequent Teaching Certificates (2004)
25.40 Requirements for the Special Certificate (Repealed)
25.43 Standards for Certification of Special Education Teachers
25.45 Standards for the Standard Special Certificate--Speech and Language Impaired
25.50 General Certificate (Repealed)
25.60 State Special Certificate, Grades 11-12, For Teaching Elective Subjects (Repealed)
25.65 Alternative Certification
25.67 Alternative Route to Teacher Certification
25.70 Provisional Vocational Certificate
25.72 Temporary Provisional Vocational Certificate
25.75 Part-time Provisional Certificates
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AUTHORITY: Implementing Article 21 and Section 14C-8 and authorized by Section 2-3.6 of the School Code [105 ILCS 5/Art. 21, 14C-8, and 2-3.6].

SUBPART I: ILLINOIS CERTIFICATION TESTING SYSTEM

Section 25.710 Definitions

For the purposes of this Subpart, the following definitions apply:

"Passing raw score" is the minimum number of multiple choice items that must be answered correctly on a given test or the combination of required correct responses to multiple choice items and required numerical value of constructed responses.

"Passing score" is the minimum scaled score a person must obtain in order to pass a test.

"Re-scoring" means the process of reviewing an examinee's answers and the scores assigned to them to confirm that a test score reported to an examinee is the score earned by him or her.
"Retake" is the opportunity for a person who has taken a test of the Illinois Certification Testing System at one test administration to take the test in the same area as given at subsequent administrations.

"Scaled score" is the person's test score after the mathematical transformation of the number of test items the person answered correctly to a scale of numbers on which the minimum score, the maximum score, and the passing score are set. Through May 31, 2006, for the tests of subject matter knowledge and language proficiency, the minimum scaled score is 0, the maximum score 100, and passing score 70. Beginning in June 2006, for the tests of subject matter knowledge (content-area tests) and language proficiency, the minimum scaled score is 100, the maximum score 300, and the passing score 240. For the assessment of professional teaching, the basic skills test, and any new content-area test first administered after December 31, 2002, the minimum scaled score is 100, the maximum score 300, and the passing score 240.

"Subarea score" is the scaled score for the subset of test items on a subject matter test or content-area test which measures specific content, and for any test administration for which scores are reported before September 30, 2010, the "subarea score" is the scaled score for each subset of test items on the basic skills test which measures specific content in reading comprehension, writing, language arts, and mathematics.

“Test” or “Tests” refers to the test of basic skills, the assessment of professional teaching, the language proficiency tests, and the tests of subject matter knowledge (or “content-area tests”) for the Illinois Certification Testing System. Through June 30, 2004, these tests are:

- Agriculture
- Art (K-12)
- Art (6-12)
- Assessment of Professional Teaching – Early Childhood
- Assessment of Professional Teaching – Elementary
- Assessment of Professional Teaching – Secondary
- Assessment of Professional Teaching – Special
- Basic Skills
  - Language Arts
  - Mathematics
  - Reading Comprehension
Writing
Biological Science
Blind and Partially Sighted
Business/Marketing/Management
Chemistry
Chief School Business Official
Computer Science
Dance
Deaf and Hard of Hearing
Early Childhood
Educable Mentally Handicapped
Elementary/Middle Grades (K-9)
English
English as a Second Language
English Language Proficiency
French
General Administrative
General Science
General Supervisory (available through June 30, 2003)
German
Guidance
Health
Health Occupations
Hebrew
History
Family and Consumer Sciences
Industrial Technology Education
Italian
Latin
Learning Disabilities
Mathematics
Media
Music (K-12)
Music (6-12)
Physical Education (K-12)
Physical Education (6-12)
Physically Handicapped
Physical Science
Physics
Beginning July 1, 2004, the Illinois Certification Testing System shall consist of the following tests in addition to the content-area tests applicable to certification in special education. Beginning with score reports issued after September 30, 2010, “test” or “tests” will also refer to subtests (reading comprehension, writing, language arts, and mathematics) of the basic skills test.

Agricultural Education
Assessment of Professional Teaching
   Early Childhood
   Elementary
Secondary
Special
Basic Skills
Business, Marketing, and Computer Education
Chief School Business Official
Dance
Director of Special Education (required beginning July 1, 2005)
Drama/Theatre Arts
Early Childhood
Early Childhood Special Education
Elementary/Middle Grades (K-9)
English Language Arts
English Language Proficiency
English as a New Language
Family and Consumer Sciences
Foreign Languages
   Arabic (available in September 2008)
   Chinese (Cantonese or Mandarin)
   French
   German
   Hebrew
   Italian
   Japanese
   Korean
   Latin
   Russian
   Spanish
General Administrative
Guidance (through June 30, 2005)
Health Education
Health Careers
Library Information Specialist
Mathematics
Music
Physical Education
Reading Teacher
Reading Specialist
School Counselor (beginning July 1, 2005)
School Nurse
School Psychologist
School Social Worker
Sciences
  Biology
  Chemistry
  Earth and Space Science
  Environmental Science
  Physics
Social Sciences
  Economics
  Geography
  History
  Political Science
  Psychology
  Sociology and Anthropology
Superintendent
Technology Education
Technology Specialist
Transitional Bilingual Education – Language Proficiency
  Arabic
  Assyrian
  Bosnian
  Bulgarian
  Cantonese
  Filipino
  Greek
  Gujarati
  Hindi
  Japanese
  Korean
  Lao
  Mandarin
  Polish
  Russian
  Serbian
  Spanish
  Urdu
  Vietnamese
Visual Arts
"Test items" are specific questions asked on a test that require a person either to select the correct response from those alternative responses provided or to produce a written or oral response.

"Test objective" is a statement of the behavior or performance measured by test items.

“Unauthorized aids” are materials and devices that candidates are prohibited from bringing to a test administration. These include notes, calculators, calculator watches, calculator manuals, cellular phones, electronic communication devices, visual or audio recording or listening devices, and any other items whose use may compromise the security or validity of a test. However, any material or device that is permitted as part of an accommodation arranged pursuant to Section 25.740 of this Part shall not be considered an unauthorized aid. Furthermore, a calculator shall not be considered an unauthorized aid when its use is authorized pursuant to the current ICTS registration bulletin and the contractor’s web site.

(Source: Amended at 34 Ill. Reg. _____, effective ______________)

Section 25.720  Applicability of Testing Requirement and Scores

a) It is the individual's responsibility to take the appropriate tests. Upon request, the State Board of Education shall assist individuals in identifying appropriate tests.

b) Basic Skills Test

Except as provided in subsections (b)(1) and (3) of this Section, each candidate seeking his or her first Illinois certificate (teaching, administrative, or school service personnel) shall be required to pass the test of basic skills. Further, Section 21-1a(d) of the School Code requires passage of this test as a prerequisite to enrollment in an Illinois teacher preparation program beginning with the 2002-2003 academic year.

1) A person who has passed the test of basic skills as a condition of admittance to an Illinois preparation program approved pursuant to Subpart C of this Part shall not be required to retake that test.
2) A person who has passed the basic skills test and has been issued an Illinois certificate on the basis of the test shall not be required to retake the basic skills test when seeking any subsequent certificate.

3) A person who passed another state’s test of basic skills as a condition of certification or of admission to a teacher preparation program shall not be required to pass this State’s test of basic skills if he or she holds a valid and comparable out-of-state certificate. (Section 21-1a of the School Code [105 ILCS 5/21-1a]) For purposes of this subsection (b)(3), a “comparable certificate” is one that either:

A) was issued on or before June 30, 2004; or

B) was issued on or after July 1, 2004, based on the individual’s passage of a test of basic skills.

4) The provisions of subsection (b)(3) of this Section notwithstanding, any individual who has attempted the Illinois basic skills test without passing it shall be required to pass it in order to qualify for an Illinois certificate.

5) When a person who was not required to take the basic skills test pursuant to subsection (b)(3)(A) of this Section seeks a subsequent Illinois certificate, he or she shall be required to pass the Illinois test of basic skills. However, a person applying for another Illinois certificate based on an additional out-of-state certificate or qualifications shall be treated as an out-of-state applicant and shall be subject to subsection (b)(3) of this Section.

6) The basic skills test will be administered as four separate subtests: reading, language arts, mathematics, and writing.

A) Individuals may take all four subtests or any combination of the individual subtests during a single test administration.

B) Scores on basic skills subtests can be “banked,” and an individual will not be required to take a subtest again once he or she has achieved a passing score.
C) Each test administration of the basic skills test in which an examinee participates shall count toward the testing limit established under subsection (h) of this Section, regardless of the number of subtests the examinee includes as part of that particular test administration.

c) Content-Area Tests

1) Except as provided in subsection (c)(2) of this Section, each candidate seeking an Illinois certificate, whether his or her first certificate or a subsequent certificate, shall be required to pass a content-area test. The required content-area test is that which corresponds to the approved program completed or the endorsement for which the applicant otherwise qualifies. Further, Section 21-1a(d) of the School Code requires passage of this test for program completion. No waivers or exemptions are available.

2) A person who holds a valid and comparable out-of-state certificate is not required to take the applicable content-area test if he or she has passed a certification test in another state or territory that is directly related in content to the specific area of certification. (Section 21-1a of the School Code) For purposes of this Section, a test is “directly related in content” if it covered material encompassed by any of the subject areas in which the individual otherwise qualifies for an Illinois endorsement.

3) A person who has passed a test of language proficiency in order to qualify for a transitional bilingual certificate and received that certificate shall not be required to retake that test in order to qualify for a bilingual education credential on another certificate received later. A person who has passed a test of language proficiency as a condition of admission to an Illinois preparation program shall also not be required to retake that test.

d) Assessment of Professional Teaching (APT)

Each candidate seeking his or her first Illinois early childhood, elementary, secondary, or special certificate shall be required to pass the APT relevant to the certificate sought (see Section 25.710 of this Part). A candidate seeking a subsequent teaching certificate of one of these types must also pass the APT relevant to the certificate sought, unless he or she either:
1) has already passed an APT that encompasses the grade levels of the subsequent certificate sought; or

2) already holds another Illinois teaching certificate that encompasses the grade levels of the certificate sought.

e) Except as provided in subsections (b)(1), (c)(2), (c)(3), and (d)(1) of this Section, for each person seeking an Illinois certificate, no score on a required test may be more than ten years old at the time application is made. The ten-year period shall be calculated from the date the test was taken and passed to the date of receipt of the application by the State Board of Education. Scores more than ten years old will not be accepted as part of an application.

1) The ten-year period discussed in this subsection (e) shall apply to each score that forms part of an application received on or after July 1, 2008.

2) The ten-year period discussed in this subsection (e) shall also apply to each score that forms part of an application that is pending as of June 30, 2008, and to each score that forms part of an application for which an evaluation is still valid as of that date pursuant to Section 25.427 of this Part.

f) Subject to registration in accordance with the provisions of this Subpart I, the provisions of Section 25.755(g)(1) of this Part, and the limitations of subsection (h) of this Section, an individual who has taken a paper-and-pencil test may retake that test during any subsequent, regularly scheduled administration of that test in paper-and-pencil format and may retake that test by computer during any subsequent computer-based test administration.

g) Subject to registration in accordance with the provisions of this Subpart I, the provisions of Section 25.755(g)(1) of this Part, and the limitations of subsection (h) of this Section, an individual who has taken a computer-based test may retake that test by computer after no fewer than 120 days but also may retake that test during any subsequent, regularly scheduled administration of the test in paper-and-pencil format.

h) Subsequent to January 1, 2010, no individual may attempt to pass the same test more than five times in any combination of the two formats (i.e., computer-based test or paper-and-pencil format).
Section 25.765 Individual Test Score Reports

a) The State Board of Education will report each individual's test scores only to:
   1) the individual candidate earning such scores;
   2) the Illinois teacher education institutions and community colleges to which the candidate requested the scores be sent; and
   3) any other institution, entity, or person authorized or required by law.

b) The score report released to each individual by the State Board of Education will:
   1) indicate the test date and whether or not the person has passed the test; and
   2) report the person's total score and the applicable subarea or subtest scores as scaled scores.

c) No test scores will be released via facsimile or over the telephone.

d) A person shall have the right to request additional copies of his or her score report, subject to payment of the required fee.

e) Beginning with the score reports issued after September 30, 2010, an Illinois institution with an approved educator preparation program will be able to access any of an examinee's test results (i.e., pass or fail) posted to the Teacher Certification Information System.
TO: Illinois State Board of Education

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

Agenda Topic: Proposed Amendments for Initial Review: Part 226 (Special Education)

Materials: Recommended Amendments

Staff Contact(s): David Andel, Division Administrator

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

Relationship to/Implications for the State Board’s Strategic Plan
This agenda item does not link to a specific Strategic Goal as the changes are technical in nature to conform the rules to federal requirements, recently enacted state laws or agency procedures.

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

Background Information
The proposed amendments to Part 226 address several different subject areas, each of which is discussed separately below. Additionally, nonsubstantive technical changes also are proposed throughout the sections being amended.

Home/Hospital Instruction. P.A. 96-257, effective August 11, 2009, sets forth the criteria for a student’s receipt of instruction either at home or in the hospital and requires that the agency establish by rule the qualifications of staff providing this instruction. Current rules at Section 226.300 mirror the criteria in the law for the provision of home or hospital instruction, but do not address the qualifications of staff that will provide the instruction. New subsection (h) will be added to address staff qualifications by cross-referencing the rules where general requirements for qualification can be found (Section 1.610 of rules governing Public Schools Evaluation, Recognition and Supervision).

Remote Educational Programs. P.A. 96-684, effective August 25, 2009, authorizes school districts to establish remote educational programs (i.e., instruction delivered to students at home or a location other than the school building). New Section 226.360 is being proposed to remind school districts that place students with disabilities into these programs of their obligations relative to the provision of programming and related services as specified in the child’s Individualized Education Program (IEPs).
Consent. Section 226.540 sets forth the conditions under which a parent may revoke consent for any action by the district or cooperative entity serving his or her child. The changes being proposed are to ensure that the agency’s rules align with changes that were made to federal regulations in December 2008. The new federal regulations modified the requirements of 34 CFR 300.9 and 300.300, making it explicit that if a parent opts to revoke consent for an existing special education placement, the school district must honor the revocation and may not challenge it through due process.

Special Education Cooperatives. P.A. 96-769, effective August 28, 2009, directs the agency to establish procedures for regional boards of school trustees’ consideration of petitions for the withdrawal of one or more school districts from a special education joint agreement. New Section 226.780 addresses three scenarios under which these petitions are considered:

- Only one regional board of school trustees has oversight or governance over the districts subject to the joint agreement; or
- One or more regional boards of school trustees have oversight or governance over the districts subject to the joint agreement; or
- One or more regional boards of school trustees with oversight or governance over the districts subject to the joint agreement have been dissolved.

The proposed rules set forth notice requirements and the factors (i.e., special education needs and conditions of the petitioning district) that boards must consider in determining whether to grant the petition for withdrawal.

Qualified Worker. P.A. 96-257 also made changes in Section 14-1.10 of the School Code to provide a definition of “qualified worker” to replace “professional worker” (for the purpose of reimbursement under Section 14-13.01 of the School Code) and authorizes the agency to determine by rule any other “trained specialists” for whom reimbursement can be received. New Appendix A enumerates these positions and qualifications for each. These requirements have been used by staff in the Funding and Disbursements Division for quite some time, so they should be familiar to school districts and special education cooperatives.

Miscellaneous. Other changes being proposed include:

- specifying that notices regarding IEPs be provided in writing, as well as those for parental participation in other meetings with the school district;
- requiring that interpreters provided for parents who are deaf or hard of hearing be individuals licensed under the Interpreter for the Deaf Licensure Act of 2007;
- clarifying that requirements for facilities pertain only to facilities of school districts, cooperatives and joint agreements rather than for facilities of organizations that provide special education and/or residential services to students with disabilities under contract to one or more Illinois school districts pursuant to Section 14-7.02 of the School Code; and
- removing two references to Section 25.40 of rules governing Certification since that section of the rules has been repealed.

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

Policy Implications. See “Background” above.

Budget Implications. None.

Legislative Action. None.
Communication. See below.

Pros and Cons of Various Actions
The proposed clarifications and updates are necessary to conform the rules to current procedures and requirements. Not proceeding with the changes will result in Part 226 not being up to date, which has the potential to cause confusion among those being regulated by its requirements.

Superintendent’s Recommendation
The State Superintendent recommends that the State Board of Education adopt the following motion:

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

Special Education (23 Illinois Administrative Code 226),

including publication of the proposed amendments in the Illinois Register.

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

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**SUBPART H: ADMINISTRATIVE REQUIREMENTS**

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**SUBPART I: PERSONNEL**

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Section 226.Appendix A  Special Education Professional Personnel

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 A: GENERAL

Section 226.50 Requirements for a Free Appropriate Public Education (FAPE)
A “free appropriate public education (‘FAPE’)” as defined at 34 CFR 300.17, must be made available by school districts to children with disabilities in accordance with 34 CFR 300.101 through 300.103, unless otherwise specified in this Section.

a) Transfer Students

Provision of FAPE to students who transfer into a local school district shall be made in accordance with the requirements of 20 USC 1414(d)(2)(C). The additional requirements of this subsection (a) shall also apply.

1) In the case of an eligible student transferring into a district from another district within Illinois, when the new district obtains a copy of the student’s IEP before or at the time the child is presented for enrollment:

A) The district may adopt the IEP of the former local school district without an IEP meeting if:

i) the parents indicate, either orally or in writing, satisfaction with the current IEP; and

ii) the new district determines that the current IEP is appropriate and can be implemented as written.

B) If the district does not adopt the former IEP and seeks to develop a new IEP for the child, within ten days after the date of the child’s enrollment the district must provide written notice to the parent, including the proposed date of the IEP meeting, in conformance with Section 226.530 of this Part. While the new IEP is under development, the district shall implement services comparable to those described in the IEP from the former district.

2) If the new school district does not receive a copy of the child’s current IEP or a verbal or written confirmation of the requirements of that IEP from the previous school district when the child is presented for enrollment, the child shall be enrolled and served in the setting that the receiving district believes will meet the child’s needs until a copy of the current IEP is obtained or a new IEP is developed by the school district.
A) In no case shall a child be allowed to remain without services during this interim.

B) The new district shall request the student’s records from the sending district or school by the end of the next business day after the date of enrollment.

C) No later than ten days after expiration of the time allotted under Section 2-3.13a of the School Code [105 ILCS 5/2-3.13a] for the sending district or school to forward the child’s records, the new district shall provide written notice to the parent of an IEP meeting initiate an IEP meeting for the purpose of developing a new IEP, unless the sending district’s or school’s IEP arrives before this time elapses, the student has transferred from a district within Illinois, and the new district adopts the previously held IEP.

b) Jurisdictional Disputes

Each school district is responsible for ensuring that no eligible child for whom services are sought is denied FAPE due to jurisdictional disputes among Illinois agencies. Provision of FAPE to such a student shall not preclude a district from seeking repayment for costs incurred from any other school district or entity that is determined responsible for such costs.

c) Eligibility; Graduation or Completion of Program

1) An eligible student who requires continued public school educational experience to facilitate his or her integration into society shall be eligible for such services through age 21, inclusive (i.e., through the day before the student’s 22nd birthday) (see 34 CFR 300.101(a)).

2) The provision of FAPE is not required with respect to a student with a disability who has graduated with a regular high school diploma.

3) A student with a disability who has fulfilled the minimum State graduation requirements set forth in Section 27-22 of the School Code [105 ILCS 5/27-22] shall be eligible for a regular high school diploma.
A) If the student’s individualized education program prescribes special education, transition planning, transition services, or related services beyond that point, issuance of that diploma shall be deferred so that the student will continue to be eligible for those services.

B) If the student is to receive a regular high school diploma, at least one year prior to the anticipated date of its issuance, both the parent and the student shall receive written notification in conformance with the requirements of 34 CFR 300.503 that eligibility for public school special education services ends following the granting of a diploma and that the parent (or the student, if Section 226.690 of this Part applies) may request an IEP meeting to review the recommendation that the student receive a regular diploma.

4) Students who have participated in a graduation ceremony but have not been awarded regular high school diplomas continue to be eligible to receive FAPE through age 21, inclusive.

d) Exception for Certain Students Incarcerated as Adults

Pursuant to 34 CFR 300.102(a)(2), the right to receive FAPE does not extend to students from 18 through 21 years of age who are incarcerated and who were not identified as eligible and did not have IEPs in their educational placements immediately prior to incarceration.

(Source: Amended at 34 Ill. Reg. _____, effective ____________)

SUBPART B: IDENTIFICATION OF ELIGIBLE CHILDREN

Section 226.180 Independent Educational Evaluation

Parents have the right to obtain an independent educational evaluation of their child at public expense in accordance with 34 CFR 300.502 and Section 14-8.02(b) of the School Code. The following rights and requirements shall also apply.

a) If the parents disagree with the district’s evaluation and wish to obtain an independent educational evaluation at public expense, their request to that effect shall be submitted in writing to the local school district superintendent.
b) When an independent evaluation is obtained at public expense, the party chosen to perform the evaluation shall be either:

1) an individual whose name is included on the list of independent educational evaluators developed by the State Board of Education pursuant to Section 226.830 of this Part with regard to the relevant types of evaluation; or

2) another individual possessing the credentials required by Section 226.840 of this Part.

c) If the parent wishes an evaluator to have specific credentials in addition to those required by Section 226.840 of this Part, the parent and the school district shall agree on the qualifications of the examiner and the specific evaluations to be completed prior to the initiation of an independent educational evaluation at public expense. If agreement cannot be reached, the school district shall initiate a due process hearing subject to the time constraints set forth in this Section, as applicable.

d) The district shall provide written notice convening the IEP Team’s meeting within ten days after receiving the report of an evaluation conducted at public expense. In the case of an evaluation conducted at private expense, the district shall send the notice within ten days after the parent requests a meeting to consider the results.

(Source: Amended at 34 Ill. Reg. _____, effective ____________)

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, the district shall provide 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 34 Ill. Reg. _____, effective ____________)

SUBPART D: PLACEMENT

Section 226.300 Continuum of Placement Options

Each local school district shall, in conformance with the requirements of 34 CFR 300.39 and 300.115, ensure that a continuum of placements is available to meet the needs of children with disabilities for special education and related services. With respect to the home instruction and instruction in hospitals and institutions referenced in 34 CFR 300.39 and 300.115:

a) The child receives services at home or in a hospital or other setting because he or she is unable to attend school elsewhere due to a medical condition.

b) When an eligible student has a medical condition that will cause an absence for two or more consecutive weeks of school or ongoing intermittent absences, the IEP Team for that child shall consider the need for home or hospital services. Such consideration shall be based upon a written statement from a physician licensed to practice medicine in all its branches which specifies:

1) the child’s medical condition;

2) the impact on the child’s ability to participate in education (the child’s physical and mental level of tolerance for receiving educational services); and

3) the anticipated duration or nature of the child’s absence from school.
c) If an IEP Team determines that home or hospital services are medically necessary, the team shall develop or revise the child’s IEP accordingly.

d) The amount of instructional or related service time provided through the home or hospital program shall be determined in relation to the child's educational needs and physical and mental health needs. The amount of instructional time shall not be less than five hours per week unless the physician has certified in writing that the child should not receive as many as five hours of instruction in a school week.

e) A child whose home or hospital instruction is being provided via telephone or other technological device shall receive not less than two hours per week of direct instructional services.

f) Instructional time shall be scheduled only on days when school is regularly in session, unless otherwise agreed to by all parties.

g) Home or hospital instructors shall meet the requirements of 23 Ill. Adm. Code 1.610 (Public Schools Evaluation, Recognition and Supervision).

h) Services required by the IEP shall be implemented as soon as possible after the district receives the physician’s statement.

(Source: Amended at 34 Ill. Reg. _____, effective ____________)

Section 226.360 Placement by School Districts in Remote Educational Programs

A school district that places a student into a remote educational program authorized under Section 10-29 of the School Code [105 ILCS 5/10-29] shall ensure that the educational programming and related services as specified in the child’s IEP are provided to the student. The placement of the student in a remote educational program does not relieve the school district of the responsibility for ensuring that the student will receive all programming and related services required by the IEP, whether from one source or from multiple sources. Each local school district shall be responsible for monitoring the performance of the remote educational program to ensure that the implementation of each IEP conforms to the applicable requirements of this Part.

(Source: Added at 34 Ill. Reg. _____, effective ____________)

SUBPART F: PROCEDURAL SAFEGUARDS
Section 226.530 Parents’ Participation

With respect to parents’ participation in meetings, school districts shall conform to the requirements of 34 CFR 300.322 and 300.501. For purposes of 34 CFR 300.322(a)(1), “notifying parents of the meeting early enough to ensure that they will have an opportunity to attend” means the district shall provide written notification no later than ten days prior to the proposed date of the meeting. In addition, the district shall take whatever action is necessary to facilitate the parent’s understanding of and participation in the proceedings at a meeting, including arranging for and covering the expense of an interpreter for parents who are or whose native language is other than English or for an interpreter licensed pursuant to the Interpreter for the Deaf Licensure Act of 2007 [225 ILCS 443] for parents who are deaf.

(Source: Amended at 34 Ill. Reg. _____, effective ____________)

Section 226.540 Consent

Consent, as defined in 34 CFR 300.9, shall be obtained and may be revoked in accordance with the requirements of 34 CFR 300.154(e), 300.300, 300.323, and 300.622. In addition, the following requirements shall apply:

a) A parent may revoke consent for any action by the district or cooperative entity serving his or her child that requires parental consent. If a parent desires to revoke consent, he or she may do so either in writing or orally. If the revocation of consent is communicated orally, the district or cooperative entity shall commit the parent’s request to writing and provide a copy of this written summary to the parent within five days.

b) Any revocation of consent is effective immediately, subject to the provisions of subsection (c) of this Section, but is not retroactive, i.e., it does not negate an action that occurred after the consent was given and before it was revoked. For purposes of this subsection (b), a district shall be considered to have given immediate effect to a parent’s revocation of consent when it either discontinues the action that is the subject of the revocation prior to its next scheduled occurrence or provides to the parent a written explanation of the timeline for the district’s action and the reasons for that timeline. The district or cooperative entity shall ensure that each staff member whose activities are affected by the revocation of consent is promptly informed of the revocation.
If a district disagrees with a parent’s revocation of consent, the district may request a due process hearing pursuant to Subpart G of this Part.

1) If the parent’s revocation of consent pertains to an evaluation or re-evaluation of the student, the district shall not proceed with the evaluation or re-evaluation during the pendency of due process.

2) If the parent’s revocation of consent pertains to a special education placement for the student that is already in effect, the district’s request for a due process hearing shall have the effect of staying that placement, provided that the district submits the request in writing to the State Board of Education in keeping with the provisions of Section 226.615 of this Part and within five business days after the parent’s revocation occurred.

(Source: Amended at 34 Ill. Reg. _____, effective ____________)

SUBPART H: ADMINISTRATIVE REQUIREMENTS

Section 226.720 Facilities and Classes

a) Facilities of school districts, special education cooperatives, or joint agreements used for special education services shall be appropriate to, and adequate for, the specific programs or services for which they are used and, pursuant to Section 14-8.01 of the School Code, shall be subject to the applicable provisions of 23 Ill. Adm. Code 180 (Health/Life Safety Code for Public Schools). The facilities shall be comparable to those provided to the students in the general education environment.

b) The age range of students within a special education grouping shall not exceed four years at the elementary level and six years at the secondary level. Early childhood classes and services shall serve only children from three through five years of age, except that a district shall not be prohibited from permitting a child who reaches his or her sixth birthday during a year to complete that year.

c) Special education classes and services shall be delivered in age-appropriate settings.

(Source: Amended at 34 Ill. Reg. _____, effective ____________)
Section 226.780  Procedures for Withdrawal Hearings before the Regional Board of School Trustees

This Section sets forth the procedures for a hearing by one or more regional boards of school trustees to consider a school district’s petition to withdraw from a special education joint agreement pursuant to Section 10-22.31 of the School Code [105 ILCS 5/10-22.31].

a) Upon receipt of the petition for withdrawal, a regional board of school trustees that exercises oversight or governance over all member school districts of the joint agreement shall conduct the hearing.

1) The secretary of the regional board of school trustees shall cause a copy of the petition to be delivered to the board of each member district and shall cause notice of the petition to be published once in a newspaper having general circulation in the educational service region. The notice shall include the following:

A) The date the petition was filed;
B) The name of each school district that is a member of the joint agreement;
C) The effective date on which the petitioning district would be withdrawn from the joint agreement if the petition is granted; and
D) The return date on which the hearing upon the petition will be held, which shall be no less than 10 and no more than 15 days after the publication of the notice.

2) Prior to the hearing on the petition for withdrawal, the secretary of the regional board of school trustees shall submit to the regional board of school trustees a written report of the educational and administrative conditions of the districts involved relative to the provision of special education services.

3) The regional board of school trustees shall hear evidence as to the special education needs and conditions of the petitioning school district and of the special education cooperative from which it wishes to withdraw and shall determine whether it is in the best interest of the students with disabilities
in the petitioning district that the petition for withdrawal from the joint agreement be granted.

4) The regional board of school trustees shall enter an order granting or denying the petition within 30 days of the hearing. *Approval of the petition shall be by a two-thirds majority of the school trustees* (see Section 10-22.31 of the School Code). A certified copy of such an order shall be sent to the petitioning district, the special education cooperative, the regional superintendent of education in whose region the cooperative is located, and the State Board of Education’s Division of Special Education Services at 100 North First Street, Springfield, Illinois 62777.

b) Upon receipt of the petition for withdrawal from a special education joint agreement in which more than one regional board of school trustees exercises oversight or governance over any of the school districts participating in the agreement, a joint hearing will be held on the petition.

1) The petition for withdrawal shall be filed concurrently with each regional board of school trustees exercising oversight or governance over any of the member districts.

2) The regional board of school trustees for the region where the administrative office of the special education cooperative is located shall be responsible for the coordination of all activities related to the joint hearing.

A) The coordinating regional board of school trustees shall comply with all provisions of subsection (a) of this Section, and shall provide copies of all notices and reports required under subsection (a) of this Section to the secretaries of each of the regional boards of school trustees whose school districts are parties to the special education joint agreement.

B) The joint hearing shall be held in the region of the coordinating regional board of school trustees.

3) *Approval of the petition shall be by a two-thirds majority of all those school trustees present and voting at the joint hearing* (see Section 10-22.31 of the School Code).
c) In instances where one or more of the competent regional board of school trustees has been abolished, petitions for withdrawal shall be made to the school boards of those member districts that would fall under the oversight or governance of the abolished regional board of school trustees.

1) Upon receipt of the petition for withdrawal, the remaining member districts shall place the petition on their respective school board agenda for the next regularly scheduled board meeting.

2) Each member district shall afford the petitioning district the opportunity to address the school board at the time the petition is considered by the board.

3) Each member district shall act upon a resolution, either approving or denying the petition for withdrawal. Approval of a petition shall be by a two-thirds majority of those districts unless the joint agreement’s articles of agreement provide otherwise.

(Source: Added at 34 Ill. Reg. _____, effective ____________)

SUBPART I: PERSONNEL

Section 226.800 Personnel Required to be Qualified

a) General

1) Each school district, or the cooperative entity of which it is a member, shall employ sufficient professional and noncertified personnel to deliver and supervise the full continuum of special education and related services needed by the eligible students who reside in the district. The number and types of personnel employed shall be based on students’ need rather than administrative convenience.

2) Each district or cooperative entity shall periodically submit to the State Board of Education, on forms supplied by the State Board, the roster of the individuals who will be or are providing special education or related services. The State Board may request any additional documentation
needed in order to verify that each individual holds the qualifications that are required for his or her assignments.

3) Reimbursement for personnel expenditures shall be made by the State Board only with respect to individuals who are qualified pursuant to this Section or pursuant to Section 226.810 or 226.820 of this Part, or pursuant to Section 226.Appendix A of this Part. A school district may claim reimbursement only for the positions listed in Section 226.Appendix A of this Part.

4) Each district or cooperative entity shall develop and implement a comprehensive personnel development program for all personnel involved with the education of children with disabilities.

b) Professional Instructional Personnel

Each individual employed in a professional instructional capacity shall hold either:

1) a valid special certificate and the qualifications required for the teaching area pursuant to 23 Ill. Adm. Code 25.40 and 25.43; or

2) another valid teaching certificate and approval issued by the State Board of Education specific to the area of responsibility (see Section 226.810 of this Part).

c) An individual assigned as a vocational coordinator shall be required to hold approval for this position, which shall be granted provided that the individual submits an application demonstrating that he or she:

1) has two years’ teaching experience;

2) holds either a special preschool-age 21 certificate or a high school certificate; and

3) has completed at least 16 semester hours of college coursework, which shall at least include each of the areas identified in subsections (c)(3)(A) through (D) and may include one or more of the areas identified in subsections (c)(3)(E) through (I) of this Section:
A) Survey of the exceptional child;
B) Characteristics of the mentally retarded student;
C) Characteristics of the socially and/or emotionally maladjusted student;
D) Vocational programming for students with disabilities;
E) Characteristics of other exceptionalities;
F) Methods course in special education;
G) Guidance and counseling;
H) Educational and psychological diagnosis;
I) Vocational and technical education.

d) An individual assigned as a teacher coordinator shall be required to hold approval for this position, which shall be granted provided that the individual submits an application demonstrating that he or she:

1) holds either a special preschool – age 21 certificate endorsed for the disability area of assignment or a high school certificate with special education approval in the applicable disability area issued pursuant to Section 226.810 of this Part;

2) has completed a course in vocational programming for students with disabilities; and

3) has at least one year’s work experience outside the field of education or has completed at least one course in either guidance and counseling or vocational and technical education.

e) An individual assigned as a business manager’s assistant shall hold an administrative certificate endorsed for chief school business official pursuant to 23 Ill. Adm. Code 25.345 25.344.
f) Qualified Bilingual Specialists

Professional staff otherwise qualified pursuant to this Section shall be considered “qualified bilingual specialists” if they meet the applicable requirements set forth in this subsection (f).

1) A holder of a special certificate endorsed in the area of responsibility pursuant to 23 Ill. Adm. Code 25.40 or 25.43 shall successfully complete a language examination in the non-English language of instruction and shall have completed coursework covering:

   A) Psychological/educational assessment of students with disabilities who have limited English proficiency;

   B) Theoretical foundations of bilingual education and English as a second language, including the study of first and second language acquisition; and

   C) Methods and materials for teaching students of limited English proficiency or students with disabilities who have limited English proficiency.

2) A holder of an early childhood, elementary, or high school, or special certificate who also holds special education approval in the area of responsibility (see Section 226.810 of this Part) shall successfully complete a language examination in the non-English language of instruction and shall have completed the coursework listed in subsections (f)(1)(A), (B), and (C) of this Section.

3) A holder of an early childhood, elementary, or high school, or special certificate who also holds approval to teach bilingual education or English as a second language shall have completed coursework covering:

   A) Methods for teaching in the special education area of assignment;

   B) Psychological/educational assessment of students with disabilities who have limited English proficiency, or psychological diagnosis for children with all types of disabilities; and
C) Characteristics of students, or characteristics of students with limited English proficiency specifically, in the special education area of assignment.

4) A holder of a transitional bilingual certificate issued pursuant to 23 Ill. Adm. Code 25.90 and endorsed for the language of assignment shall have completed two years of successful teaching experience and have completed coursework covering:

A) Survey of children with all types of disabilities;

B) Assessment of the bilingual student, or psychological/educational assessment of the student with disabilities who has limited English proficiency;

C) Theoretical foundations of bilingual education and English as a second language, including the study of first and second language acquisition;

D) Methods for teaching in the special education area of assignment; and

E) Characteristics of students, or characteristics of students with limited English proficiency specifically, in the special education area of assignment.

5) A holder of a school service personnel certificate endorsed for guidance, school social work, or school psychology shall successfully complete an examination in the non-English language and shall have completed coursework in assessment of the bilingual student or psychological/educational assessment of the student with disabilities who has limited English proficiency.

g) Directors and Assistant Directors of Special Education

Each school district, or the cooperative entity of which it is a member, shall employ a full-time director of special education, who shall be the chief administrative officer of the special education programs and services of the
district or cooperative entity. The provisions of subsections (g)(1) and (2) of this Section shall apply through June 30, 2005. Beginning July 1, 2005, directors and assistant directors of special education shall be subject to the requirements of 23 Ill. Adm. Code 29.140 and 29.150.

1) Each director or assistant director of special education shall hold a valid administrative certificate issued pursuant to 23 Ill. Adm. Code 25.365 and 25.345 and a master’s degree, including 30 semester hours of coursework distributed among all the following areas:

A) Survey of exceptional children;
B) Special methods courses (3 areas of exceptionality);
C) Educational and psychological diagnosis and remedial techniques;
D) Guidance and counseling; and
E) Supervision of programs for exceptional children.

2) Each individual who will function as a director or assistant director of special education shall submit an application for special education administrative approval on a form supplied by the State Board of Education.

3) Each school district, or the cooperative entity of which it is a member, shall submit to the State Board of Education a letter identifying the individual employed as the director of special education. If the individual is qualified as required, the State Board shall confirm that the individual is the State-approved director of special education for the district or cooperative entity.

h) Supervisors

1) Each district or cooperative entity shall employ sufficient supervisory personnel to provide consultation to and coordination of special education services.
2) Each individual performing a supervisory function shall hold a master’s degree, including at least 15 semester hours of coursework distributed among all the following areas:

A) Survey of exceptional children;
B) Characteristics courses in the areas to be supervised;
C) Methods courses in the areas to be supervised;
D) Educational and psychological diagnosis and remedial techniques; and
E) Supervision of programs for exceptional children.

3) Each individual performing a supervisory function shall also hold either:

A) a valid special certificate in the area to be supervised, endorsed for supervision pursuant to 23 Ill. Adm. Code 25.497 25.322, with two years’ teaching experience in that area; or

B) a valid school service personnel certificate endorsed for supervision and two years’ experience in the area to be supervised; or

C) a valid administrative certificate and either a valid special certificate endorsed for the area to be supervised or special education approval in that area.

i) Chief Administrator of Special School

The chief administrator of a special school shall hold an administrative certificate with a general administrative endorsement issued pursuant to 23 Ill. Adm. Code 25.335 or 25.365 25.344 and either:

1) the qualifications required under 23 Ill. Adm. Code 25.43 in at least one disability area served by the school; or
2) approval issued by the State Board of Education pursuant to Section 226.810 of this Part for at least one disability area served by the school.

j) Other Professional Personnel

Each individual employed in a professional capacity not specified in subsections (a) through (i) of this Section shall, as appropriate to his or her assignment, hold:

1) the school service personnel certificate endorsed as appropriate to the area of responsibility (see 23 Ill. Adm. Code 25, Subpart D); or

2) a valid license or permission to practice, if the individual’s profession is governed by such a requirement and either no educational credential in the same or a related field is issued by the State Board of Education (e.g., for a physical therapist) or the School Code permits the individual to perform the functions assigned; or

3) a credential, regardless of title, issued by a professional association or organization in the relevant field, when no educational credential in the same or a related field is issued by the State Board of Education and no license or permission to practice is required by the State (e.g., for a music therapist or a daily living skills specialist).

k) Noncertified Personnel

1) Each noncertified professional individual employed in a special education class, program, or service, and each individual providing assistance at a work site, shall function under the general direction of a professional staff member.

2) Each program assistant/aide, as well as each nonemployee providing any service in the context of special education, shall function under the direct supervision of a professional staff member.

3) Each district shall provide training experiences appropriate to the nature of their responsibilities to the individuals discussed in subsections (k)(1) and (2) of this Section. Training shall be in lieu of the requirements for noncertified personnel set forth in 23 Ill. Adm. Code 1, Subpart G.
Section 226.840 Qualifications of Evaluators

The following list identifies the credentials required to administer certain types of evaluations. Where no requirements are established, an evaluation may be performed by an individual who is qualified to administer it according to the technical specifications of the publisher.

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<td>Academic Performance</td>
<td>Teaching certificate/approval appropriate for the age or disability of the child, or School Service Personnel Certificate endorsed for school psychology or guidance. (See Article 21 of the School Code [105 ILCS 5/Art.21] and the State Board’s rules at 23 Ill. Adm. Code 1 and 23 Ill. Adm. Code 25.)</td>
</tr>
<tr>
<td>Adapted Physical Education</td>
<td>Special Certificate endorsed for physical education with approval in adapted physical education (23 Ill. Adm. Code 25.40 and 25.43).</td>
</tr>
<tr>
<td>Assistive Technology</td>
<td>To the extent that a test is used in performing this assessment, qualification for administering the test according to the instructions provided by the test’s publisher.</td>
</tr>
<tr>
<td>Audiological</td>
<td>License to practice as an Audiologist issued by the Department of Financial and Professional Regulation pursuant to the Illinois Speech-Language Pathology and Audiology Practice Act [225 ILCS 110].</td>
</tr>
<tr>
<td>Clinical Psychological</td>
<td>License issued pursuant to the Clinical Psychologist Licensing Act [225 ILCS 15].</td>
</tr>
<tr>
<td>Cultural Background Assessment</td>
<td>School Service Personnel Certificate endorsed for school psychology, school social work, or school counseling.</td>
</tr>
</tbody>
</table>
Hearing Screening License to practice as an Audiologist issued by the Department of Financial and Professional Regulation pursuant to the Illinois Speech-Language Pathology and Audiology Practice Act [225 ILCS 110], Special Certificate endorsed for speech and language impairment (23 Ill. Adm. Code 25.45), or certificate of training issued by the Department of Public Health (77 Ill. Adm. Code 675).


Medical Review School Service Personnel Certificate endorsed for school nursing (23 Ill. Adm. Code 25.245 25.240), or registration with the Illinois Department of Financial and Professional Regulation license to practice medicine in all of its branches.

Neurological Evaluation Licensure/registration issued by the Department of Financial and Professional Regulation pursuant to the Medical Practice Act of 1987 [225 ILCS 60].

Occupational Therapy Evaluation Certificate/Registration issued by the Department of Financial and Professional Regulation pursuant to the Illinois Occupational Therapy Practice Act [225 ILCS 75].

Orientation/Mobility Certification for orientation/mobility instruction and evaluation (Certification for Orientation and Mobility, Orientation and Mobility Division, Association for Education and Rehabilitation of the Blind and Visually Impaired, 4600 Duke Street, #430, P.O. Box 22397, Alexandria, Virginia 22304; 1984; no later amendments or editions are included).

Physical Therapy Certificate/registration issued by the
Evaluation

Department of Financial and Professional Regulation pursuant to the Illinois Physical Therapy Act [225 ILCS 90].

Psychiatric Evaluation

Licensure/registration issued by the Department of Financial and Professional Regulation pursuant to the Medical Practice Act of 1987.

School Psychological

School Service Personnel Certificate endorsed for school psychology.

Social Developmental Study (Adaptive Behavior, Cultural Background, Family History)


Speech and Language Assessment

Special Certificate endorsed for speech and language impairment (23 Ill. Adm. Code 25.45).

Vision Screening

Certificate of training issued by the Department of Public Health (77 Ill. Adm. Code 675).

(Source: Amended at 34 Ill. Reg. _____, effective ____________)

Section 226. Appendix A Special Education Professional Personnel

The following table lists the work assignments and qualifications for qualified workers eligible to receive reimbursement under Section 14-13.01 of the School Code. All requirements necessary for proper certification or approval in these work assignments are found in Subpart I of this Part, unless otherwise noted.

<table>
<thead>
<tr>
<th>WORK ASSIGNMENT</th>
<th>REQUIRED QUALIFICATIONS</th>
</tr>
</thead>
<tbody>
<tr>
<td>Adapted Physical Education</td>
<td>A valid Illinois teaching certificate endorsed for physical education and an adapted physical education approval encompassing the grade levels and age ranges of the students served.</td>
</tr>
<tr>
<td>WORK ASSIGNMENT</td>
<td>REQUIRED QUALIFICATIONS</td>
</tr>
<tr>
<td>---------------------------------------------</td>
<td>------------------------------------------------------------------------------------------</td>
</tr>
<tr>
<td>Administrator of a Special School</td>
<td>Must meet the requirements of Section 226.800(i) of this Part.</td>
</tr>
<tr>
<td>Art</td>
<td>A valid Illinois teaching certificate endorsed for art encompassing the grade levels and age ranges of the students served.</td>
</tr>
<tr>
<td>Art Therapist</td>
<td>Registration from American Art Therapy Association or a master's degree in art therapy awarded by a regionally accredited institution of higher education.</td>
</tr>
<tr>
<td>Assistant Director</td>
<td>Must hold a valid administrative certificate with a director of special education endorsement issued pursuant to 23 Ill. Adm. Code 25.365 and 23 Ill. Adm. Code 1.705 and meet the requirements of Section 226.800(g) of this Part.</td>
</tr>
<tr>
<td>Autism</td>
<td>A valid Illinois teaching certificate with either a categorical or cross-categorical special education endorsement or approval encompassing the grade levels and age ranges of the students served.</td>
</tr>
<tr>
<td>Behavior Analyst</td>
<td>Board Certified Behavior Analyst (BCBA) as evidenced by a current valid certificate awarded by the Behavior Analyst Certification Board, Inc.</td>
</tr>
<tr>
<td>Business Manager or Business Manager Assistant</td>
<td>A bachelor's degree in a business-related field or master's degree in school administration awarded by a regionally accredited institution of higher education or a general administrative certificate issued pursuant to 23 Ill. Adm. Code 25.335 and meeting the requirements for Chief School Business Official set forth at 23 Ill. Adm. Code 25.345.</td>
</tr>
<tr>
<td>Cognitive Disability</td>
<td>A valid Illinois teaching certificate with either a cross-categorical special education endorsement or approval or mental retardation endorsement or approval encompassing the grade levels and age ranges of the students served.</td>
</tr>
<tr>
<td>WORK ASSIGNMENT</td>
<td>REQUIRED QUALIFICATIONS</td>
</tr>
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</tr>
<tr>
<td>Consultant Contractual</td>
<td>The individual and the position to which he or she will be assigned is identified in the school district’s Individuals with Disabilities Education Act 2004, Part B, grant application and have been approved by the State Board of Education’s Special Education Services Division. This work assignment has been added for the consultant position providing in-service or other types of services on a short-term basis. This consultant may not provide direct services to students.</td>
</tr>
<tr>
<td>Cross-categorical</td>
<td>A valid Illinois teaching certificate with a cross-categorical special education endorsement or approval encompassing the grade levels and age ranges of the students served.</td>
</tr>
<tr>
<td>Daily Living Skills Specialist</td>
<td>Certificate from the Academy for Certification of Vision Rehabilitation and Education Professionals or its predecessor organization.</td>
</tr>
<tr>
<td>Diagnostic</td>
<td>A valid Illinois prekindergarten-through-age-21 (PreK-21) teaching certificate with either a learning disability or cross-categorical special education endorsement or approval.</td>
</tr>
<tr>
<td>Drama</td>
<td>A valid Illinois teaching certificate endorsed for drama/theatre arts encompassing the grade levels and age ranges of the students served.</td>
</tr>
<tr>
<td>Early Childhood</td>
<td>A valid Illinois early childhood certificate with either an early childhood special education endorsement or early childhood special education approval or a PreK-21 certificate endorsed either for categorical or cross-categorical special education.</td>
</tr>
<tr>
<td>Emotional Disability</td>
<td>A valid Illinois teaching certificate with either a cross-categorical special education or a social-emotional disorders endorsement or approval encompassing the grade levels and age ranges of the students served.</td>
</tr>
<tr>
<td>Home Economics</td>
<td>A valid Illinois teaching certificate endorsed for teaching home economics or family and consumer science encompassing the grade levels and age ranges of the students served.</td>
</tr>
<tr>
<td>Home/Hospital Instructor</td>
<td>A valid Illinois teaching certificate endorsed in the area of the student’s...</td>
</tr>
<tr>
<td>WORK ASSIGNMENT</td>
<td>REQUIRED QUALIFICATIONS</td>
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</tr>
<tr>
<td>(see Section 226.300 of this Part)</td>
<td>disability (i.e., mental retardation, physically handicapped or who have learning disabilities or social/emotional disorders), or in the area of speech-language pathology, blind or visually impaired, or deaf or hard of hearing.</td>
</tr>
<tr>
<td>Infant/Toddler/Family Specialist</td>
<td>For federally funded programs serving infants and toddlers, birth through two years of age: Completion of a degree program with evidence of specific training in child development and family development specific for children ages birth to five years.</td>
</tr>
<tr>
<td>Inservice Coordinator</td>
<td>A valid Illinois teaching certificate endorsed either for categorical or cross-categorical special education or a valid Illinois school service personnel certificate (see 23 Ill. Adm. Code 25, Supart D).</td>
</tr>
<tr>
<td>Medical Services Personnel (Diagnostics and Evaluation)</td>
<td>Registration with the Illinois Department of Financial and Professional Regulation.</td>
</tr>
<tr>
<td>Music</td>
<td>A valid Illinois teaching certificate endorsed for music encompassing the grade levels and age ranges of the students served.</td>
</tr>
<tr>
<td>Music Therapist</td>
<td>Registration from the American Music Therapy Association or master's degree in music therapy from a regionally accredited institution of higher education.</td>
</tr>
<tr>
<td>Occupational Therapist</td>
<td>Licensed by the Illinois Department of Financial and Professional Regulation pursuant to the Illinois Occupational Therapy Practice Act [225 ILCS 75].</td>
</tr>
<tr>
<td>Orientation and Mobility Specialist</td>
<td>Certificate from the Academy for Certification of Vision Rehabilitation and Education Professionals or its predecessor organization or the Association for the Education and Rehabilitation of the Blind and Visually Impaired.</td>
</tr>
<tr>
<td>Orthopedic Impairment</td>
<td>A valid Illinois teaching certificate with either a cross-categorical special education or physically handicapped endorsement or approval encompassing the grade level and age range of students served.</td>
</tr>
<tr>
<td>Physical Therapist</td>
<td>Licensed by the Illinois Department of Financial and Professional Regulation pursuant to the Illinois Physical Therapy Act [225 ILCS 90].</td>
</tr>
<tr>
<td>WORK ASSIGNMENT</td>
<td>REQUIRED QUALIFICATIONS</td>
</tr>
<tr>
<td>--------------------------------</td>
<td>---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------</td>
</tr>
<tr>
<td>Recreational Therapist</td>
<td>Licensed by the National Council for Therapeutic Recreation or its predecessor organization.</td>
</tr>
<tr>
<td>Rehabilitation Counselor</td>
<td>Certificate from the Commission on Rehabilitation Counselor Certification (CRCC) or a master’s degree in rehabilitation counseling awarded by a regionally accredited institution of higher education.</td>
</tr>
<tr>
<td>School Counselor/Guidance</td>
<td>Meets the requirements of 23 Ill. Adm. Code 25.43 appropriate to the area of responsibility or holds another valid Illinois teaching certificate endorsed for guidance/counseling.</td>
</tr>
<tr>
<td>School Nurse</td>
<td>Meets the requirements of Section 10-22.23 of the School Code [105 ILCS 5/10-22.23] and 23 Ill. Adm. Code 25.245.</td>
</tr>
<tr>
<td>School Nurse (Grandfathered)</td>
<td>Employed as a registered school nurse prior to July 1, 1976, and continuing in the same position with the same district or joint agreement.</td>
</tr>
<tr>
<td>School Nurse Intern</td>
<td>Meets the requirements of Section 226.820(b) of this Part. Reimbursement for this position shall not be for a period of time that exceeds four months.</td>
</tr>
<tr>
<td>School Psychologist</td>
<td>Meets the requirements of Section 14-1.09 of the School Code [105 ILCS 5/14-1.09] and 23 Ill. Adm. Code 25.235.</td>
</tr>
<tr>
<td>School Psychologist Intern</td>
<td>Meets the requirements of Section 226.820(b) of this Part.</td>
</tr>
<tr>
<td>School Social Worker</td>
<td>Meets the requirements of Section 14-1.09a of the School Code [105 ILCS 5/14-1.09a], and Section 226.820(b) of this Part and 23 Ill. Adm. Code 25.215, as applicable.</td>
</tr>
<tr>
<td>School Social Work Intern</td>
<td>Meets the requirements of Section 226.820(b) of this Part.</td>
</tr>
<tr>
<td>Specific Learning Disability</td>
<td>A valid Illinois teaching certificate with either a cross-categorical special education or learning disability endorsement or approval encompassing the grade levels and age ranges of the students served.</td>
</tr>
<tr>
<td>Speech-Language</td>
<td>Non-teaching Position: Meets the requirements of Section 14-1.09b of...</td>
</tr>
<tr>
<td>WORK ASSIGNMENT</td>
<td>REQUIRED QUALIFICATIONS</td>
</tr>
<tr>
<td>-----------------------------------------------------</td>
<td>--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------</td>
</tr>
<tr>
<td>the School Code [105 ILCS 5/14-1.09b] and 23 Ill. Adm. Code 25.252, as applicable, for speech-language pathologist.</td>
<td></td>
</tr>
<tr>
<td>Teaching Position: Holds a valid Illinois teaching certificate issued pursuant to 23 Ill. Adm. Code 25.43 and endorsed in speech-language pathology.</td>
<td></td>
</tr>
<tr>
<td>Speech-Language Paraprofessional</td>
<td>Holds a bachelor’s degree in speech and language pathology and has received approval to serve as a speech and language paraprofessional.</td>
</tr>
<tr>
<td>Speech-Language Pathologist Intern (Interim)</td>
<td>Meets the requirements of 23 Ill. Adm. Code 25.255.</td>
</tr>
<tr>
<td>State-Approved Director of Special Education (serving in a full-time capacity)</td>
<td>Meets the requirements of Section 23 Ill. Adm. Code 25.365 and 23 Ill. Adm. Code 1.705(g).</td>
</tr>
<tr>
<td>Supervisor</td>
<td>Meets the requirements of 23 Ill. Adm. Code 226.800(h) and 23 Ill. Adm. Code 1.705(h), as applicable.</td>
</tr>
<tr>
<td>Support Teacher</td>
<td>A valid Illinois teaching certificate with either a categorical or cross-categorical special education endorsement or approval encompassing the grade levels and age ranges of the students served.</td>
</tr>
<tr>
<td>Teacher Coordinator of Vocational Education</td>
<td>Meets the requirements of Section 226.800(d).</td>
</tr>
<tr>
<td>Technology Education/Industrial Arts</td>
<td>A valid Illinois teaching certificate endorsed for technology education or teaching industrial arts encompassing the grade levels and age ranges of the students served.</td>
</tr>
<tr>
<td>Transition Consultant</td>
<td>Meets the requirements for approval for either Vocational Coordinator or Teacher Coordinator of Vocational Education.</td>
</tr>
<tr>
<td>Vocational Coordinator</td>
<td>Meets the requirements set forth in Section 226.800(c) of this Part and 23 Ill. Adm. Code 1.737(c)(3).</td>
</tr>
<tr>
<td>WORK ASSIGNMENT</td>
<td>REQUIRED QUALIFICATIONS</td>
</tr>
<tr>
<td>-----------------------</td>
<td>----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------</td>
</tr>
<tr>
<td>Vocational Education</td>
<td>A valid Illinois teaching certificate and meets the requirements for the specific area to be taught in vocational education set forth in 23 Ill. Adm. Code 1.Subpart G.</td>
</tr>
<tr>
<td>Vocational Transition</td>
<td>Must hold a contract with the Division of Rehabilitation Services, Illinois Department of Human Services, under the Secondary Transition Experience Program (STEP).</td>
</tr>
</tbody>
</table>

(Source: Added at 34 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, Deputy Superintendent and General Counsel

Agenda Topic: Amendments for Adoption – Part 180 (Health/Life Safety Code for Public Schools)

Materials: Recommended Rules

Staff Contacts: Debbie Vespa, 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 agenda item links to Strategic Plan Goal 3, safe and healthy learning environments, as the rules set forth procedures for school districts’ use of fire prevention and safety funds for emergency projects.

Expected Outcome of Agenda Item
The Board will be asked to adopt amendments to Part 180.

Background Information
Section 180.530 of rules governing Health/Life Safety Code for Public Schools sets forth the process for accessing fire prevention and safety funds authorized under Section 17-2.11 of the School Code for use in emergency situations. The rules define emergency for this purpose and require that school districts seek authorization for the use of the funds for the emergency from its regional office of education, as well as the State Superintendent of Education.

P.A. 96-252, effective August 11, 2009, amended Section 17-2.11 of the School Code to codify in statute the definition of an “emergency” that has been used in the rules. The law also sets forth two separate procedures for school districts’ use of fire prevention and safety funds for emergency purposes, allowing those districts with repairs under the $50,000 threshold set forth in Section 10-20.21 of the School Code to proceed without prior authorization. Although the district would be allowed to begin the work, it still must meet the requirements of Section 17-2.11 of the School Code regarding authorization of the work by the district’s regional office of education and State Superintendent, as well as any applicable contracting provisions set forth in Section 10-20.21 of the School Code.

The law also directs the agency to prescribe by rule the process to be used by districts when the cost of the work exceeds $50,000 and provide that emergency situations “be expedited and

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given priority consideration”. As noted above, the process is set forth in Section 180.530, so no further rulemaking is needed in this regard. To ensure timely consideration of districts’ requests for authorization for emergency work, deadlines for both regional offices of education and the agency are proposed in Section 180.530(b)(3) and (4).

The proposed amendments were published January 29, 2010, in the Illinois Register to elicit public comment. None was received, and the version being presented for adoption at this time is identical to that originally proposed.

**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**

Part 180 currently has procedures that school districts must follow in order to access fire prevention and safety funds for emergency projects. The proposed amendments make clear that the procedures only pertain to those emergency projects whose costs exceed $50,000 and that authorization for emergency projects exceeding $50,000 in costs, while subject to these procedures, must be expedited and given priority consideration over non-emergency projects by the State Board of Education.

Failure of the agency to promulgate these proposed amendments will have no effect on the process now in place for seeking authorization to use fire prevention and safety funds for emergency work but could cause confusion for districts when reconciling the new requirements of Section 17-2.11 with the current rules.

**Superintendent’s Recommendation**

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

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

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

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 amendments will be filed with the Secretary of State and disseminated as appropriate.
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<thead>
<tr>
<th>Section</th>
<th>Title</th>
</tr>
</thead>
<tbody>
<tr>
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<tr>
<td>180.20</td>
<td>Severability</td>
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<tr>
<td>180.30</td>
<td>Definitions</td>
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<td>180.40</td>
<td>Responsibilities of Local School Board</td>
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<tr>
<td>180.50</td>
<td>Responsibilities of Regional Superintendent</td>
</tr>
<tr>
<td>180.60</td>
<td>Applicability</td>
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<tr>
<td>180.70</td>
<td>Variances and Waivers</td>
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<tr>
<td>180.80</td>
<td>Vehicular Facilities</td>
</tr>
</tbody>
</table>

**SUBPART B: REQUIRED QUALIFICATIONS**

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<th>Section</th>
<th>Title</th>
</tr>
</thead>
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<td>180.100</td>
<td>Approval Procedure</td>
</tr>
<tr>
<td>180.110</td>
<td>Specific Requirements for Plan Reviewers</td>
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<td>180.120</td>
<td>Specific Requirements for Inspectors</td>
</tr>
</tbody>
</table>

**SUBPART C: CONSTRUCTION AND LIKE ACTIVITIES**

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<thead>
<tr>
<th>Section</th>
<th>Title</th>
</tr>
</thead>
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<td>180.210</td>
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<td>Inspections During and Upon Completion of Construction</td>
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<td>180.225</td>
<td>Application for Certificate of Occupancy</td>
</tr>
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<td>180.230</td>
<td>Certificate of Occupancy</td>
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<tr>
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<td>Demolition or Movement of Buildings or Other Structures</td>
</tr>
<tr>
<td>180.250</td>
<td>Sprinkler Systems</td>
</tr>
<tr>
<td>180.260</td>
<td>Sprinkler System Requirements and Applicability (Repealed)</td>
</tr>
<tr>
<td>180.270</td>
<td>Standards for Sprinkler Systems (Repealed)</td>
</tr>
<tr>
<td>180.280</td>
<td>Standards for Sprinkler System Plans and Specifications (Repealed)</td>
</tr>
</tbody>
</table>
SUBPART D: INSPECTIONS

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

SUBPART E: ADDRESSING VIOLATIONS

Section
180.400 Violations
180.410 Unsafe Conditions
180.420 Temporary Closing and Condemnation

SUBPART F: FIRE PREVENTION AND SAFETY FINANCING

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


SUBPART F: FIRE PREVENTION AND SAFETY FINANCING

Section 180.500 Request for Authorization
a) A school board desiring to use fire prevention and safety funds shall submit to the regional superintendent, using a format prescribed by the State Board of Education, a Request for Authorization ("request"). The request shall consist of a Statement of Facts and Assurances and a Summary of Financing Requirements and shall be accompanied by the following documents, prepared and certified by a licensed design professional:

1) a Schedule of Violations, including a brief description of each violation and the recommended correction; and

2) a Schedule of Recommended Work Items and Estimated Costs.

b) Fire prevention and safety financing shall only be approved if:

1) the district has levied at its maximum authorized rate for its operations and maintenance fund for the most recent year for which tax rates are available; and

2) the district does not have sufficient unrestricted funds in its operations and maintenance fund (Section 17-2 of the School Code [105 ILCS 5/17-2]), its school facility occupation tax fund (Section 10-20.43 10-20.40 of the School Code [105 ILCS 5/10-20.43 10-20.40], as added by P.A. 95-675), and/or its fire prevention and safety fund (Section 17-2.11 of the School Code [105 ILCS 5/17-2.11]) to pay for the necessary work.

c) If the regional superintendent finds that the request is complete and approvable, he or she shall so certify and forward the request with such certification to the State Superintendent of Education. If the regional superintendent disapproves the request, he or she shall so certify and return the request with such certification to the local board. The regional superintendent shall approve or disapprove each request within three months after its submission by a local board.

d) A board of education whose request is not acted upon within three months may submit the request to the State Superintendent for review.

e) Except under emergency circumstances as provided for in Section 180.530 of this Part, a regional superintendent shall not grant approval to use fire prevention and safety funds for any work which has already been initiated, without the prior express authorization of the State Superintendent. (Section 17-2.11 of the School Code [105 ILCS 5/17-2.11])
f) If the State Superintendent finds that a request is complete and approvable, he or she shall so certify and return the approved request with such certification to the regional superintendent.

g) Upon receipt of an approved request from the State Superintendent, the regional superintendent shall issue an order to implement the request and forward the request and the order to the originating school board.

(Source: Amended at 34 Ill Reg. _____, effective _____________)

Section 180.530 Emergencies

For purposes of this Section, an emergency is a situation that presents an imminent and continuing threat to the health and safety of students or other occupants of a facility, requires complete or partial evacuation of a building or part of a building, or consumes one or more of the 5 emergency days built into the adopted calendar of the school or schools or would otherwise be expected to cause such school or schools to fall short of the minimum school calendar requirements. [105 ILCS 5/17-2.11]

a) If the estimated cost of the emergency is less than the amount stated in clause (xi) of Section 10-20.21(a) of the School Code [105 ILCS 5/10-20.21(a)], the school district may begin the work before receiving authorization from the State Board of Education in accordance with the procedures set forth in Section 17-2.11 of the School Code and Section 180.500 of this Part. An emergency is a situation which presents an imminent and continuing threat to the health and safety of students or other occupants of a facility; requires complete or partial evacuation of a building or part of a building; or consumes one or more of the 5 emergency days built into the adopted calendar of the school or schools or would otherwise be expected to cause such school or schools to fall short of the minimum school calendar requirements.

b) If it is determined that fire prevention and safety financing will be required to address an emergency whose projected cost exceeds the amount specified in clause (xi) of Section 10-20.21(a) of the School Code, then the district superintendent or other authorized person shall notify the regional superintendent and the State Superintendent of Education or designee of the nature of the emergency and the steps to be taken. The regional superintendent and the State Superintendent or designee shall give preliminary authorization to proceed and provide any special instructions that may be pertinent. Formal confirmation of
this authorization is required and shall be pursued as outlined in subsections (b)(1) through (4) below.

1) The board of education, either at a regular meeting or at a special meeting called for that purpose, shall adopt a resolution declaring:

A) The existence of an emergency;

B) Whether or not funds needed to address the emergency are available;

C) Whether the work must be bid or the board desires to exempt itself from the bidding requirements on the basis of the emergency determined in accordance with clause (xiv) of Section 10-20.21(a) of the School Code;

D) What interim measures are contemplated to sustain operations;

E) The number of members of the board and the numbers voting in favor of and against the motion to adopt the resolution.

2) Two copies of the board's resolution shall be dated and signed by the president and secretary of the board and the district superintendent and submitted in person, by fax, or by mail as soon as possible to the regional superintendent and State Board.

3) No later than 30 calendar days after receipt of the resolution, the regional superintendent State Superintendent or designee shall review the facts, call for any additional information if necessary, and, when satisfied that the situation constitutes an emergency, notify the State Superintendent or designee of his or her approval of the request to prepare a Certificate of Authorization for Emergency Procedures.

4) No later than 10 business days after receiving notification of approval from the regional superintendent, the State Superintendent or designee shall prepare a Certificate of Authorization for Emergency Procedures. The Certificate of Authorization for Emergency Procedures shall authorize the district to initiate work to be financed with fire prevention and safety funds or funds loaned to the Fire Prevention and Safety Fund prior to the
formal approval of such work through the normal process. However, said Certificate may be granted only on the conditions that:

A) Proper application for use of fire prevention and safety funds (see Section 180.500 180.530) will be initiated and prosecuted in a timely manner by the district;

B) The work undertaken shall in all respects conform to the requirements of this Part and such other standards as may be applicable to the situation; and

C) Final approval of the use of fire prevention and safety funds will be predicated on the finding that the facts enunciated in the board resolution are or were substantially true.

(Source: Amended at 34 Ill Reg. _____, effective _____________)
TO: Illinois State Board of Education

FROM: Christopher A. Koch, Ed.D., State Superintendent of Education
      Don Evans, Director of Human Resources
      Susie Morrison, Deputy Superintendent and Chief of Staff
      Darren Reisberg, Deputy Superintendent and General Counsel

Agenda Topic: Amendments for Adoption – Part 228 (Transitional Bilingual Education) and Part 235 (Early Childhood Block Grant)

Materials: Recommended Amendments

Staff Contact(s): Robin M. Lisboa and Kay Henderson, Division Administrators

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 agenda item links to Strategic Plan Goals 1 and 2, as the rules set forth standards for high-quality bilingual and preschool education programs and program personnel, particularly as they relate to school district-administered preschool programs.

Expected Outcome(s) of Agenda Item
The Board will be asked to adopt amendments to Part 228 and Part 235.

Background Information
The majority of the changes proposed in Part 228 flow from P.A. 95-793, effective January 1, 2009, which clarifies the law to explicitly direct school districts to provide bilingual education services required under Article 14C of the School Code to students enrolled in preschool programs established by the districts.

Also included in the proposal is new Section 228.27, which addresses districts’ plans for continuing services for students who leave a transitional bilingual education (TBE) program or a transitional program of instruction (TPI) without having achieved English proficiency. These new provisions help to identify more clearly school district requirements under both state law and the federal mandate in the Equal Educational Opportunities Act.

Section 228.25 also is being amended to require statewide exit criteria rather than allowing districts to use a higher cut score than the minimum set by the agency and/or to consider additional exit criteria to determine when students are no longer limited English proficient (LEP). This change is the result of federal Title I monitoring conducted in 2008, in which the agency received a finding for lacking consistent, statewide criteria to exit students from the LEP subgroup for annual yearly progress (AYP) purposes. As a result of the current rule, the parameters of the LEP subgroup vary from district to district preventing a valid comparison of the LEP subgroup across the State.

Other proposed amendments address the Spanish language arts standards and administrative certificates. Additional technical changes and updates also are proposed.

The changes in Part 235 provide applicants and grantees with specific references to their responsibilities under rules governing bilingual programs, rather than adding other substantive
changes to the way in which early childhood programs must operate. In addition, P.A. 96-119, effective August 4, 2009, requires Preschool for All Children programs to enter into agreements with their local, federally funded Head Start programs. Since the law is detailed regarding the content of the agreements and deadline for their submission to the agency, no changes to Part 235 are needed to implement its provisions. However, Section 235.120(b)(3)(B) is no longer necessary since it establishes a funding priority for those applicants who chose to enter into partnership agreements with their Head Start programs.

The proposed amendments were published November 13, 2009, in the Illinois Register to elicit public comment; 199 submissions were received. The public comments generally address the requirements pertaining to implementation of bilingual programs in preschool settings, so their impact on both Parts 228 and 235 are considered together.

A summary and analysis of that public comment, along with recommendations for any changes in proposed amendments to Part 228 as a result, is attached. Changes recommended in Part 235 include the removal of a reference in Section 235.30(f)(2) to a prescribed screening instrument. This will align Part 235 with the changes staff are recommending to the Part 228, which are discussed under “Screening Tools” below. In addition, Section 235.30(f)(1) is being removed since subsection (f) requires districts to comply with rules governing Transitional Bilingual Education, which include the home language survey, and a specific reference to the survey is unnecessary.

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

**Policy Implications:** Most of the comments received urged the adoption of the proposed amendments; however, many of the commenters who objected to some aspect of the rulemaking expressed concerns about the costs associated with school districts’ compliance with the requirements. These additional costs are largely due to the provision of bilingual education services for LEP students enrolled in preschool education programs. While programs for 3- to 5-year-olds funded under the Early Childhood Block Grant have always been required to ascertain a student’s English proficiency and provide an individualized language program, they have not been required to follow the more prescriptive provisions of Article 14C and Part 228. As a result, compliance with the law and rules governing the provision of bilingual education varied among programs.

A discussion of the costs a school district is likely to incur is complicated by the state’s fiscal crisis. School districts may apply to the agency for reimbursement of the excess costs of providing bilingual education services (transitional bilingual education or transitional program of instruction) to preschool students, as well as use a portion of its Early Childhood Block Grant to pay for bilingual services. Although these two options may be available, the appropriations for both programs most likely will be reduced or level-funded in the next fiscal year, and if this occurs, more of the cost of providing the required services would be borne by school districts.

Since it is state law rather than administrative rules that requires the provision of bilingual education services for preschool students, agency staff cannot relieve school districts of their obligations in this regard. In addition, two other proposed changes – new Section 228.27 and uniform statewide exit criteria, each of which are discussed above – respond to problems identified by the federal government so it would be imprudent for the agency not to go forward with those changes at this time. Instead, staff are recommending that implementation of certain other requirements be delayed until the start of the 2012-13 school year given the current economic difficulties. Each of the affected requirements is enumerated below.

- **Screening tools.** It is recommended that further flexibility be provided in the proposed amendments for school districts to locally identify procedures to screen preschool students for English proficiency rather than specifying the use of the Pre-IPT® Oral English Test as an
option. Districts will be free to use an established screening instrument or appropriate screening procedures as defined in Section 228.10. Staff also will be recommending a modification to the definition of “prescribed screening instrument” for use at grade levels other than preschool to allow the State Superintendent to identify the tool to be used. This change is recommended in acknowledgement of the changes anticipated to be made to the tools school districts currently are required to use.

- **Spanish Language Arts Standards.** The State Board in January 2006 adopted the WIDA Spanish Language Arts Standards as a means of setting uniform expectations for the instruction provided to Spanish-speaking students in their native language as part of transitional bilingual education programs. Approximately 80 percent of the ELLs in Illinois public schools are native speakers of Spanish. An important goal of the proposed changes to add the standards is to require that they be incorporated into instruction to ensure that ELLs have access to instruction that will promote literacy in their native language, with all the advantages that such literacy is known to bring in terms of English language learning. The proposed delay in implementation of the standards will provide an additional year before the curricula must be aligned to the standards and students’ progress in Spanish language arts be measured and monitored.

- **Staff and Administrator Qualifications; Professional Development.** The proposed amendments create new Section 228.35 that addresses requirements for bilingual staff and administrators, as well as for ongoing professional development. This section, in part, contains qualifications of administrators of bilingual education programs that were put in place in 2006 and were previously found in Sections 228.10 and 228.30(c). Depending on when an administrator assumed his or her position, each had at least two years, and up to four years in some cases, to meet the qualifications required. For this reason, no modifications are being proposed.

Staff are recommending the delay of the proposed requirement of eight hours of professional development for an administrator of a bilingual program with fewer than 200 students. Currently, the rules require two hours of professional development for an administrator holding only the administrative certificate or supervisory endorsement, and that provision will remain in effect through the 2011-12 school year.

As for early childhood teachers, the proposed amendments already allow preschool teachers, who currently must hold an early childhood certificate, until July 1, 2014, to meet bilingual certification requirements.

**Budget Implications.** The Board’s FY 2011 budget proposes an increase of about 11 percent in both the bilingual education and early childhood line items; however, the Governor has proposed reductions in FY 2011 funding levels for each program of 29.9 percent and 15.9 percent, respectively, below the FY 2010 appropriations.

As noted under “Policy Implications” above, school districts with preschool programs serving LEP students will be eligible to seek reimbursement for the excess cost of providing those services through the appropriation for bilingual education. If the state appropriation for bilingual education remains level or is decreased, then an increase in the number of requests for reimbursement specific to preschool English language learners – as school districts with preschool programs become cognizant of their responsibility to provide bilingual services – may shift more funding to school districts with early childhood programs and reduce funding for those districts not offering these programs.

**Legislative Action.** None.
Communication. See below.

**Pros and Cons of Various Actions**

The proposed amendments will alert school districts to their obligations under Article 14C and Part 228 to serve LEP students enrolled in preschool programs. In addition, the proposal recognizes areas in which services to preschool programs will differ from those provided for students in kindergarten through grade 12. New Section 228.5 also explicitly states that all school districts – regardless of whether they seek reimbursement under Article 14C and Part 228 for excess costs – must provide bilingual education services to students identified as LEP.

While the mention of bilingual education responsibilities in Part 235 is not technically necessary, as the requirements will still apply if early childhood rules are silent, their inclusion better assists school districts in understanding the required components of preschool programs funded under the Early Childhood Block Grant. Regarding Head Start partnership agreements, retention of a funding priority for applicants with these would be confusing given the new law and misleading since all Preschool for All programs now must establish agreements as a condition of funding.

If the amendments are not adopted, then confusion will continue to exist among some school districts as to whether or to what degree they must serve LEP students generally, particularly those participating in preschool programs. Allowing for a delay in the implementation of certain regulatory requirements will help to ease the immediate financial burden that will be placed on school districts while giving school districts time to make any adjustments necessary for eventual implementation.

**Superintendent’s Recommendation**

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

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

- Transitional Bilingual Education (23 Illinois Administrative Code 228), and
- 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**

Notices 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 amendments will be filed with the Secretary of State and disseminated as appropriate.
Summary and Analysis of Public Comment
23 Ill. Adm. Code 228 (Transitional Bilingual Education) and 23 Ill. Adm. Code 235 (Early Childhood Education)

The vast majority of comments -- 155 of the 199 comments received -- came from individuals urging the State Board of Education to adopt the amendments to Part 228 as proposed. These individuals expressed their support of the provision of bilingual education services to students enrolled in preschool programs. While many of the commenters submitted a form letter or postcard of support, others cited the importance of providing instruction in a student’s home language while he or she is learning English as a way to ensure future academic success. A student’s being competent in his or her home language as well as English also promotes parental involvement in the school and leads to stronger bonds between the child and parent, they said.

Other commenters, however, expressed concerns about the proposed financial considerations in implementing the new requirements, screening and assessment procedures, and shortages of qualified teaching and administrative staff. These and other issues raised are addressed individually below.

Funding Issues

Comment

A lack of funding was an overarching concern both explicitly stated or inherent in most of the comments that objected to some aspect of the rulemaking. Commenters noted that no new source of funds – through the Bilingual Education or the Early Childhood Block Grant appropriations – has been identified to help school districts align their preschool programs with the requirements. In fact, some respondents complained that the amount of state support that school districts receive for bilingual education has been decreasing. Allocating local resources to bilingual education, one person noted, will result in the “loss of service to other children”.

A number of other individuals submitted nearly identical treatises explaining how each requirement in the rules represents an unfunded mandate and therefore, school districts’ implementation of these requirements would be “burdensome” and a “tremendous financial hardship”. Several of the district superintendents submitting these remarks also estimated the costs their districts would incur in meeting the requirements. The stress of providing bilingual services in preschool programs is further complicated, a superintendent said, by “declining government support, tax caps, unfunded mandates, existing insurance costs, and aging facilities”.

One advocate asked that the agency direct bilingual funding to preschool programs to help them defray the costs of meeting the new requirements and to ensure that school districts providing subgrants to community-based organizations pass that additional funding to programs offered in community settings. Others expressed fear that the new requirements would cause some school districts to discontinue their preschool programs. Pointing out that preschool programs are optional, some said that the school district, rather than the state, should be responsible for making decisions regarding operation, support and staffing.

Preschool programs that rely on both early childhood and bilingual line items to fund their preschool bilingual services, one individual pointed out, will face difficulties in monitoring
program and student progress, and reporting information about the use of the funds since each division will have its protocols, standards and requirements.

Analysis

Article 14C of the School Code, rather than Part 228, establishes in law the mandate that school districts offering preschool education programs provide bilingual education services to students in those programs who are identified as limited English proficient. Article 14C also requires that the State Board of Education establish policy or identify requirements, within the general parameters of the law, pertaining to the implementation of transitional bilingual education programs or transitional programs of instruction. Under the Illinois Administrative Procedure Act, the State Board of Education is required to set forth those policies and requirements in administrative rules.

A careful reading of the proposed amendments shows that they contain very few changes that may be described accurately as “new mandates”. Rather, much of what is contained in the rulemaking are clarifications of existing requirements or explanations of how existing requirements apply in the case of preschool students. Article 14C, rather than the rules, sets forth the requirements for many of the complaints raised in the letters received: identification of English language learners, assessment, teacher qualifications, classroom model, and student-teacher ratio.

The implementation of these components in kindergarten-through-grade-12 classrooms that serve students who are limited English proficient are not being expanded, although specificity is provided about how these existing requirements are applied in the preschool setting. Even the addition of more formal procedures for serving preschool students who are identified as limited English proficient cannot be considered wholly a “new mandate”. On the contrary, recipients of preschool education grants always have been required to assess a student’s English proficiency and design an individual language and literacy program based on the results of that assessment. Grantees provided those services in a variety of ways, with some programs closely aligning their initiatives to the ones offered in kindergarten through grade 12 and others taking a more informal approach.

That being said, the proposed amendments create new requirements in several areas. For example, school districts exiting students from bilingual education programs after three years must ensure that services continue to be provided to students who are not yet proficient in English, and a plan must be developed that specifies these services. While this is a “new mandate”, it is one necessitated by an agreement with the U.S. Department of Justice. Another new mandate requires programs serving Spanish speakers to align instruction to the Spanish Language Arts Standards. Although both of these requirements may place additional responsibilities on school districts, they also help to improve the quality of bilingual education services and contribute to the improvement of academic outcomes for limited English proficient students. The benefits of these changes help ensure the programs meet the goal set forth in Article 14C of the School Code by providing equal educational opportunity for limited English proficient students.

Bilingual education services required under the law and administrative rules are funded through a separate state appropriation that is provided to school districts according to a formula based on the number and grade levels of the students served, and the type of services provided. Districts serving preschool students who are limited English proficient may apply for reimbursement for the excess cost of providing services under the bilingual education
appropriation. Districts that receive Early Childhood Block Grants may choose to use those funds for bilingual education services, as well.

Staff acknowledge that the bilingual appropriation currently is insufficient to fully reimburse school districts for the excess cost of providing the required services, particularly as the number of students who are limited English proficient continues to grow. This situation will be exacerbated further in FY 2011 should the bilingual appropriation or the Early Childhood Block Grant decrease or remain level-funded. With the expectation that no additional funding is forthcoming for the next school year, staff have examined the proposed amendments carefully in order to ascertain new requirements whose implementation can be delayed; that is, those requirements that are purely regulatory in nature that are not being mandated through another process (i.e., federal monitoring process).

Recommendation

The following changes are recommended in response to these comments.

Section 228.30(b)(4) Beginning with the 2011-12 school year, instruction in Spanish language arts, where provided under subsection (c) or (d) of this Section, shall be aligned to the standards that are appropriate to the ages or grade levels of the students served, which are set forth in the document titled “World-Class Instructional Design and Assessment: Spanish Language Arts Standards” (2005) published by the Board of Regents of the University of Wisconsin System on behalf of the WIDA Consortium and posted at http://www.wida.us/standards/sla.aspx. No later amendments to or editions of these standards are incorporated by this Section.

Section 228.35(d)(3) A person designated to administer a TBE or TPI program in a district with fewer than 200 TBE/TPI students shall be exempt from all but the requirement for an administrative certificate or a supervisory endorsement issued on an initial or standard teaching certificate, provided that he or she annually completes a minimum of two eight hours of professional development specifically designed to address the needs of students with limited English proficiency. Beginning in the 2012-13 school year, a minimum of eight hours of professional development shall be required. An assurance that this requirement has been met shall be provided annually in a school district’s application submitted pursuant to Section 228.50 of this Part. Documentation for this professional development activity shall be made available to a representative of the State Board of Education upon request.

Section 228.35(e)(5) In addition to any other training required under this subsection (e) Beginning in the 2012-13 school year, each district that operates either a TBE or a TPI program for students of Spanish language background in kindergarten and any of grades 1 through 12 shall provide annually at least one training session related to the implementation of the Spanish language arts standards required under Section 228.30(b)(4) of this Part for staff members of that
program who are providing instruction in the Spanish language arts.

Section 228.50(b)(4)(D) Additional requirements for programs offering instruction in Spanish language arts in kindergarten and any of grades 1 through 12:

i) For the 2011-12 school year only, a description of the steps the district will take to align its curriculum in the Spanish language arts with the standards required under Section 228.30(b)(4) this Part; and

ii) For 2012-13 and each subsequent school year, a description of the methods by which the district will measure and monitor its students' progress with respect to the standards required under Section 228.30(b)(4) of this Part.

Screening Procedures

Comment

One commenter urged the agency to require that all school districts use a single tool to screen preschool students relative to their proficiency in the English language rather than allowing districts to choose a tool that meets certain criteria (see revised Section 228.10). A "consistent and uniform assessment" would ensure that students are neither denied bilingual services or receive them when they are not needed nor that the criteria used to ascertain students' English proficiency is determined on a district-by-district basis.

Several other commentors, however, supported allowing school districts to choose a screening instrument other than the Pre-IPT® Oral English Test. A suggestion was made that the agency identify other instruments that school districts might consider for screening purposes and the criteria to be used in this selection process. Additionally, preschool personnel should be allowed to use "language samples" of a child when he or she is "spontaneously engaged in various classroom or home activities in making placement decisions. Another person also endorsed the use of "data gathered from a variety of sources", as well as allowing eligibility for bilingual education services to be determined by a multi-disciplinary team that includes parents and professionals. One respondent promoted parent interviews or surveys, language samples in first and second languages, and play-based assessment as valid techniques to provide "an accurate view of the child's abilities and (to) inform their instruction". Procedures for parental notification and permission for screening should be included, one commenter urged.

Several commenters argued that a child's language skills and development cannot be adequately assessed without also looking at the student's skills in his or her home language (both in the initial screening and in annual assessments). One commenter encouraged the agency to explore "native language screening and assessment options" that can be adapted into other languages or the use of other methods to determine native language development.
Along the same lines, concerns focused on the process of screening children with special needs, particularly children who may be “non-communicative”; would such students be incorrectly identified as having limited English proficiency? One submission strongly stated that a child’s placement in a bilingual education program “should never be done on the basis of a ‘screening’ measure whose psychometric properties are not known or considered adequate”. School district staff should instead look at all available information and match the student’s “learning profile to an individualized program”.

Finally, a respondent believed that “more complete language” was needed to address the requirements for screening preschool students for English proficiency; however, the individual failed to specify what the proposed amendments were lacking. In contrast, another person commented that screening preschoolers “will be beneficial and the language (in the proposal) is clear”.

Analysis

The amendments, as originally proposed, required a district to screen preschool children using either the Pre-IPT® Oral English Test or another developmentally appropriate screening instrument or procedure that meets the following criteria:

- is research-based;
- addresses criteria to determine at what point performance identifies a child as being proficient in English; and
- measures the child’s English proficiency in at least listening and speaking, including vocabulary, comprehension, grammar and syntax, and verbal expression.

Staff proposed this additional flexibility in choosing a screening instrument or procedure after comments submitted during an external review of the proposed amendments pointed out concerns about the cost of the Pre-IPT® Oral English Test and questioned its appropriateness for screening children ages 3 to 5 years old. Staff carefully considered the Pre-IPT® instrument and other nationally recognized English language proficiency tests before requiring the use of the Pre-IPT®. At this time, the Pre-IPT® is the only instrument that has been approved for use with 3- and 4-year-old children and is valid for assessing English language proficiency. Staff also recognize, however, that the research on screeners for the early childhood population is not yet mature and that there may be other avenues to determine the English language proficiency of preschool children. While uniformity in screening is certainly desirable, it also is important to remember that preschool students – regardless of their being identified as limited English proficient and receiving bilingual education services in preschool programs – will be screened for English language proficiency upon entering kindergarten with a single, uniform instrument.

In order to ensure that districts are provided adequate flexibility and that they do not misinterpret the proposed amendments, staff are recommending removal of any reference to the Pre-IPT® as a screening tool for preschool students. In the same regard, no requirements will be made for districts to address locally developed procedures in their applications for early childhood or bilingual education funding, eliminating any agency approval or disapproval of the methods chosen. Similarly, the agency recognizes that new and more appropriate screening instruments are being developed for use in kindergarten and grades 1 through 12. In order for districts to be able to use the more up-to-date tools as they become available, staff are recommending that regulatory requirements regarding a specific instrument be removed.
It should be noted that Section 228.15(e)(4)(B) currently allows school districts to consider other evidence when the screening results show the student is “proficient” in English. In order to make the appropriate placement of the student, staff may use other indicators, such as teachers’ evaluations of performance, samples of a student’s work, or information received from family members and school personnel, to determine whether a student is in need of bilingual services.

Assessing a student’s ability in his or her native language as part of the screening process is a desirable practice that produces a more complete picture of the student’s language development for the purpose of guiding the student’s placement and instruction. Given the number of languages spoken by limited English proficient students in Illinois, however, it is not reasonable to require that districts acquire assessments in multiple native languages. The agency will recommend native language assessment to districts as a best practice but will not mandate the practice through the rulemaking process at this time.

Recommendation

The following changes are recommended in response to these comments.

Section 228.10  “Prescribed Screening Instrument” means the:

“Prescribed Screening Instrument” means the assessment tool prescribed by the State Superintendent of Education to be used by all school districts with students enrolled in kindergarten or any of the grades 1 through 12 to determine a student’s level of proficiency in English and placement in a bilingual education program. WIDA ACCESS Placement Test (W-APT)™ (2006 or 2007) for students entering or in the second semester of grades 1 through 12 (World-class Instructional Design and Assessment Consortium, Wisconsin Center for Education Research (WCER), University of Wisconsin-Madison, 1025 West Johnson Street, MD#23, Madison WI 53706 (2006));

Measure of Developing English Language (MODEL™) (2008) for students entering kindergarten or the first semester of grade 1 (World-class Instructional Design and Assessment Consortium, Wisconsin Center for Education Research (WCER), University of Wisconsin-Madison, 1025 West Johnson Street, MD#23, Madison WI 53706);

Either the Pre-IPT® Oral English Test (Ballard & Tighe, P.O. Box 219, Brea, CA 92822-0219 (2004)) or a screening process that meets the requirements of Section 228.50(b)(4)(E) of this Part.

“Prescribed Screening Procedures” means the procedures that a school district determines to be appropriate to assess a preschool student’s level of English proficiency in order to determine whether the student is eligible to receive bilingual education services. The procedures may include without limitation established screening instruments or other procedures, provided that they are research-based and are related to and able to measure the child’s English proficiency in at least the domains of listening and speaking to include vocabulary, comprehension, grammar and syntax, and verbal expression.
Section 228.15(e)(4)(A)  For preschool programs using a screening procedure other than an established assessment tool where “proficiency” is defined as part of the instrument the Pre-IPT, “proficiency” is the point at which performance identifies a child as proficient in English, as set forth in the program’s proposed screening process submitted pursuant to Section 228.50(b)(4)(E) of this Part.

Section 228.30(c)(3)  Students may be placed into a part-time program, or students previously placed in a full-time program may be placed in a part-time program, if an assessment of the student’s English language skills has been performed in accordance with the provisions of either Section 228.15(e) or Section 228.25(b) of this Part and the assessment results indicate that the student has sufficient proficiency in English to benefit from a part-time program.

i) Evidence of sufficient proficiency shall be achievement of the minimum score to be used for this purpose set by the State Superintendent either on the prescribed screening instrument required in Section 228.15(e) of this Part or the English language proficiency assessment required in Section 228.25(b). The State Superintendent shall inform districts of the minimum score to be used.

ii) Preschool programs shall use as evidence of sufficient proficiency either a minimum score for an established screening instrument or a minimum level of performance documented through established screening procedures.

iii) District staff also shall consider the student’s score and his or her proficiency in the home language; prior performance, if any, in coursework taught exclusively in English; current academic performance; and other relevant factors such as age, disability, and cultural background in order to determine whether a full-time or a part-time program is appropriate.

Section 228.50(b)(4)(E)  Preschool Programs

i) For preschool programs that will screen students for English proficiency using a procedure other than the administration of the Pre-IPT, a description of the screening procedures to be used that provides evidence that these procedures are developmentally appropriate, supported by research and address criteria to determine at what point performance on the screening instrument identifies a child as proficient in English; and screening instruments or activities related to and able to measure the child’s English proficiency in at least the domains of listening and speaking to include vocabulary,
comprehension, grammar and syntax, and verbal expression.

ii) A state-funded preschool program that does not submit an application for funding under this Part shall provide the information requested in subsection (b)(4)(E)(i) of this Section as part of its application submitted pursuant to 23 Ill. Adm. Code 235 (Early Childhood Block Grant).

In addition, references to “screening procedures” will be added in Sections 228.15(e) and (f), 228.20(b), 228.30(d), and 228.40(c).

Comment

One person questioned whether Section 228.15(e) requires school districts to screen all students with a non-English background who are entering kindergarten, regardless of whether they attended and were screened in a preschool program offered in the same district. Another recommended that the rules allow a student identified as an English language learner and receiving bilingual services in a preschool program of the district to forego another screening before entering the district’s kindergarten program. A question also was posed as to whether a preschooler who received bilingual services in preschool will be “exited” if his or her results on the kindergarten screener indicate that the student now is proficient in English.

Analysis

The purpose of the new language in Section 228.15(e) is to require that all students identified as having a non-English background be screened at the time they enroll in kindergarten, regardless of whether they had been screened in preschool. Requiring that districts screen all students in kindergarten using a uniform instrument identified by the State Superintendent parallels current requirements and ensures that identification of each student’s need for bilingual education services is determined consistently on a statewide basis. As explained in the previous analysis, staff believe that a uniform screening tool should be used in kindergarten for all students since districts may choose to use any number of established instruments or other procedures to screen their preschool students.

A student’s receipt of bilingual education services in kindergarten will not be dependent on his or her receipt of such services in a preschool program. Rather, any kindergarten student, including those who received bilingual education services in preschool, who is determined to be proficient in English using a screening instrument that the agency has identified for this purpose would not receive bilingual education services.

Recommendation

No changes are recommended in response to these comments.

Comment

One commenter asked that the requirement in Section 228.15(e) that screening take place within 30 days of a child’s enrollment in a preschool program be changed to specify 30 school days. The additional time will allow a district to re-screen a child who is “uncooperative” or whose results from the initial screening were “inconclusive.”
Analysis

The rules have always required that screening take place within 30 days of a child’s enrollment in a district. This timeline correlates with the requirement in Section 14C-4 of the School Code that parents be notified of a student’s enrollment in a bilingual education program within 30 days of the student’s enrollment in the district or in a bilingual program, if that occurs in the middle of a school year. Under the law, this notification must include the student’s level of English proficiency and how that level was determined. (Also see analysis on page 26 pertaining to calendar days versus school days.) Screening results would not be available for inclusion in this notification if a district were allowed to use “school days” since this would add upwards of a week or more to the 30-day deadline set forth in law.

The timeline for screening was modified for preschool students so as to allow screening to be conducted within 30 days “after the student commences participation in the program”. Staff believed that this distinction was important since a child might not begin participation in a preschool program at the time he or she is enrolled (e.g., space is not yet available).

Recommendation

No change is recommended in response to this comment.

Comment

A commenter suggested that other nationally normed standardized tests results be considered when determining whether to administer the screening instrument to students for whom results from the Illinois State assessments are not available. For example, another person making a similar comment mentioned that the district’s transfer students “come from a variety of states”. (See Section 228.15(e)(1)(C)(iv).)

Analysis

This request appears reasonable and provides school districts with an appropriate mechanism for treating certain students (i.e., out-of-state students, those transferring from nonpublic schools in Illinois, or students in Illinois public schools whose State assessment results are unavailable) in a manner similar to students whose State assessment results are available. It is advisable to restrict this latitude to those grades in which the Illinois State assessment is given so as not to disadvantage students transferring from an Illinois public school that does not use nationally normed standardized tests in grade levels not subject to the State assessments (i.e., kindergarten and grades 1 and 2).

Recommendation

It is recommended that Section 228.15(e)(1)(C)(iv) be changed as follows.

(e)(1)(C)(iv) has been performing at or above grade level as evidenced by having met or exceeded the Illinois Learning Standards in reading and math on the student’s most recent State assessment administered pursuant to Section 2-3.64 of the School Code [105 ILCS 5/2-3.64] or, for students for whom State assessment scores are not available, a nationally normed standardized test, provided that the either assessment was not
administered with accommodations for students of limited English proficiency. This provision applies only to a student who had been enrolled in any of the grades in which the State assessment is required to be administered in accordance with Section 2-3.64 of the School Code.

Comment

A commenter recommended a wording change in Section 228.15(e)(2) by moving the closing phrase “for purposes of eligibility and placement” to the beginning of the sentence.

Analysis

The proposed change would make the statement easier to read.

Recommendation

It is recommended that Section 228.15(e)(2) be changed as follows.

(e)(2) For purposes of eligibility and placement, a district must rely upon a student’s score attained on the English language proficiency assessment prescribed under Section 228.25(b) of this Part, if available from another school district or another state, provided that the score was achieved no more than 12 months prior to the district’s need to assess the student’s proficiency in English for purposes of eligibility and placement.

Annual Assessment

Comment

Four commenters from a single school district expressed concern that, under the proposed changes, school districts would no longer be able to use indicators other than a student’s score on the ACCESS for ELLs® assessment for determining whether a student has attained English proficiency appropriate to his or her grade level. Achievement of a proficient score would result in the student’s exiting the bilingual education program. (See Section 228.25(b).) Currently, the rules allow other indicators, such as teachers’ evaluations of performance, samples of a student’s work, or information received from family members and school personnel, to be used in assessing whether the student is still in need of services.

The comments received suggest that a student’s scoring at the proficient level alone is not enough to guarantee that the student will not be “drowning in the classroom (due to) the demands on academic achievement that become much more rigorous for them”. One educator said the proposed amendment is “regressing to the idea that ACCESS is the only valid assessment”, rather than assessing each student individually. She asked that the district be allowed to continue to use other data to ensure that when limited English proficient students leave bilingual programs, they can be “without a doubt successful in the mainstream classroom with little or no support”. In the same vein, a commenter said the proposed amendments are “truly unfair and unethical” since they eliminate the “time” necessary for students to learn English, thereby “setting them up to fail”. The individual, however, did not cite the specific provision of the proposal that she believes will have this effect.
Another letter asked that the rules provide the specific minimum composite score and literacy score that will be used to determine whether a student is identified as “proficient”.

Analysis

The agency’s elimination of the use of other criteria to determine a student’s proficiency in English is the result of federal Title I monitoring conducted in 2008. The agency received a finding for lacking consistent, statewide criteria to exit students from the limited English proficient (LEP) subgroup for AYP purposes. The finding objected to the current rules’ allowing districts to use a higher cut-score than the minimum set by the agency and/or to set additional exit criteria to determine when students are no longer LEP. As a result of the local flexibility, the parameters of the LEP subgroup vary from district to district and prevent the agency from making a valid comparison of the LEP subgroup across the State. The amendment to 228.25 addresses the problem by establishing an exit standard for LEP students with statewide uniformity. Under the proposed rules, districts must use only the State-established cut-scores.

As proposed, the rule pertaining to minimum scores for English proficiency allow the agency to analyze and adjust the established cut-scores as needed in the event the assessment evolves. In this way, delays in using any adjusted scores will be minimized if the rules do not first have to be changed. Protection for school districts is provided in that the State Superintendent is obligated under the proposed amendments to inform school districts of the scores that will be used in advance of the test being administered.

Recommendation

No changes are recommended in response to these comments.

Comment

One commenter asked that the date of the administration of the ACCESS for ELLs® assessment be moved to October or November to allow for earlier receipt of student scores to help districts plan for classroom and staffing needs in a timely way. Another suggested waiting until the results from the “winter” ACCESS for ELLs® assessment are shared with districts before they are required to make placement decisions.

Analysis

The rules do not specify the date that the ACCESS for ELLs® will be given (see Section 228.25(b)) nor when a district must make placement decisions based on those assessment results (see Section 228.30(c)(3)). However, at the start of each school year, districts must use the most recent ACCESS for ELLs® test results from the previous school year to decide whether to exit limited English proficient students in grades 1 through 12 from a bilingual education program (i.e., transitional bilingual program or transitional program of instruction). Districts may move students in transitional bilingual programs from full time to part time at any time during the school year.

Recommendation

No changes are recommended in response to these comments.

Comment
One commenter asked whether the minimum scores will differ for the purposes of determining a part-time placement for a student rather than placement in a full-time program. The commenter recommended that the decision on what score is used be made locally rather than by the agency, which she indicated is what the agency currently allows. (See Section 228.30(c)(3).) A local determination of minimum scores will enable districts to make sound decisions based on the number of students to be served, the districts’ capacity to serve them, and the individual capabilities of students to successfully progress in part-time programs.

Analysis

This comment is well-taken, as the proposed amendments in Section 228.30(c)(3) do not clearly convey that the score to be used to determine a student’s placement in a full- or part-time program is not the same score that is used to determine whether a student is proficient in English.

The minimum score for a part-time program placement will be lower than the score used to define English language proficiency and will be developed by the Division of English Language Learning in consultation with representatives of the bilingual community. The rules also allow districts to consider other criteria when deciding whether to place a student in a part-time program. Part-time placement should be based on the student’s needs and ability to benefit from instruction in English. The district’s staffing, scheduling and availability of bilingual resources should not be the only factors used to determine part-time placement.

Recommendation

It is recommended that Section 228.30(c)(3) be changed, as follows.

(c)(3) Students may be placed into a part-time program, or students previously placed in a full-time program may be placed in a part-time program, if an assessment of the student’s English language skills has been performed in accordance with the provisions of either Section 228.15(e) or Section 228.25(b) of this Part and the assessment results indicate that the student has sufficient proficiency in English to benefit from a part-time program. Evidence of sufficient proficiency shall be achievement of the minimum score to be used for this purpose set by the State Superintendent either on the prescribed screening instrument required in Section 228.15(e) of this Part or the English language proficiency assessment required in Section 228.25(b). The State Superintendent shall inform districts of the minimum score to be used. District staff also shall consider the student’s score and his or her proficiency in the home language; prior performance, if any, in coursework taught exclusively in English; current academic performance; and other relevant factors such as age, disability, and cultural background in order to determine whether a full-time or a part-time program is appropriate.

Comment

One commenter asked about the provision of accommodations, such as large print or Braille, for students being administered the screening instrument or ACCESS for ELLs®. Accommodations for students with severe cognitive disabilities are not available from vendors, she stated. She also requested that the rules distinguish between students who refuse to take the assessments from those who require accommodations for the assessment results to be valid.
Analysis

Currently, the testing guides for the ACCESS for ELLs® assessment and the required screening instruments provide the accommodations that are permissible for districts to use when administering these assessments, and the testing company does provide large-print and Braille versions of the ACCESS for ELLs® assessment upon request. Section 228.15(f) is not being changed by this rulemaking; therefore districts should be providing the accommodations identified in a student’s Individualized Education Program to the best of their abilities when screening or assessing that student.

The commenter’s final comment is not clear, as the rules do not address situations in which a student “refuses” to participate in the screening or assessment. These procedures are addressed in the test administration instructions.

Recommendation

No changes are recommended in response to these comments.

Staff Qualifications

Comment

Several submitters believed that requiring early childhood teachers to meet bilingual qualifications would improve the provision of services to English language learners at the preschool level. As one commenter remarked, adhering to the proposed deadline of July 1, 2014, for early childhood teachers to meet bilingual qualifications is “an important incentive” for teachers, administrators and teacher preparation institutions to “begin to work toward change”.

On the other hand, a far greater number of commenters expressed considerable concern about preschool programs’ ability to employ teachers who hold both an appropriate early childhood certificate (i.e., initial, initial alternative, standard, master, provisional, provisional alternative, resident teacher, or visiting international teacher early childhood certificate) and either a transitional bilingual certificate or an approval or an endorsement in bilingual education or English as a second language.

Several commenters noted the difficulty preschool programs currently have in finding a sufficient number of teachers who meet the statutory requirement that they be properly certified for early childhood education. Some programs, particularly those in community-based settings, also worry that current staff who are working toward the early childhood certification while employed will lack both the resources and time to meet the additional requirements necessary for bilingual credentials by July 1, 2014. Another mentioned that an individual qualified for both early childhood and bilingual education would command a higher salary that preschool programs could not afford to pay.

One submitter worried that preschool programs that currently employ teachers who hold both early childhood and special education certificates (due to inclusion in preschool programs of children with special needs) may be forced to choose between these individuals and early childhood teachers with bilingual qualifications. These issues are further exacerbated for
programs serving students whose home languages or the dialect of a primary language that they speak is not well-represented among Illinois’ bilingual population, a commenter noted.

As a remedy to anticipated shortages of qualified staff in four years, commenters proposed that the rules allow for a “phase-in” approach that serves as an “incentive program for agencies to meet higher thresholds of quality rather than a punitive approach of mandatory compliance”. Such a process could ensure, as one commenter stated, that preschool programs serving limited English proficient students “take immediate action” but at the same time recognizes that “time will be needed in order to develop the requisite pool of dually certified teachers”. Alternately, moving the deadline back to 2018 was suggested. Additionally, a commenter asked that provisions be made for preschool programs to request an extension of the deadline if the program can “demonstrate that reasonable efforts to comply are being made”.

One commenter asked that individuals holding a Type 29 (transitional bilingual certificate) with an early childhood background be allowed to take coursework leading to an early childhood certificate. Another asked that individuals holding a Type 29 certificate be allowed to teach in a preschool bilingual classroom due to the shortage of early childhood-certified teachers or work under the supervision of a teacher who holds proper early childhood certification. One other recommendation put forth is to allow preschool teachers currently working toward bilingual approval or endorsement to be considered “highly qualified” before the 2014 deadline.

Analysis

It is important to understand when considering any action relative to these comments that the agency is not at liberty to change the certification requirements for teachers providing instruction in either early childhood classrooms or to students receiving bilingual services. Section 2-3.71 of the School Code stipulates that all teachers must hold an early childhood teaching certificate. Likewise, Section 14C-8 requires any teacher employed in a transitional bilingual program to hold either a valid Illinois teaching certificate and meet other language and course requirements as determined by the State Board of Education (i.e., teaching certificate with bilingual education or English as a second language endorsement or approval) or meet the requirements for a certificate set forth under Section 14C-8 (transitional bilingual or Type 29 certificate). These overlapping requirements mean that a preschool teacher serving bilingual students must meet both sets of certification requirements noted above.

As state-funded early childhood programs expanded substantially in the last several years due to an increase in the appropriation for the program and the inclusion of applicants other than school districts, a shortage in qualified early childhood teachers became apparent. The agency established a program to encourage individuals holding bachelor’s degrees to complete coursework necessary for receipt of an early childhood certificate, similar to the “Grow Your Own” Teacher Education initiative. Commenters urged the agency to use programs like this and others, such as Gateways to Opportunities, to expand the pool of candidates qualified to teach both early childhood and bilingual education. In addition, programs may use, as appropriate, other federal or state funding for teacher scholarships, cohorts or grants to institutions of higher education as encouragements for individuals to seek early childhood and/or bilingual certification.

Agency staff recognized the difficulty of programs finding an adequate number of qualified staff by proposing a delayed effective date in the rules. The July 1, 2014, deadline for preschool programs’ compliance with bilingual certification requirements was chosen because it is also the deadline for noncertificated staff who assist in instruction in preschool programs to meet the
same qualifications as their counterparts employed in kindergarten through grade 12. It is assumed that the deadline would provide sufficient time for programs to meet requirements, yet not unreasonably delay the requirement that preschool programs must employ fully qualified staff.

Additionally, the agency soon will be making changes to rules regarding the transitional bilingual certificate and making it applicable to teachers in prekindergarten. At that point in time, individuals holding an appropriate early childhood certification may receive a transitional bilingual certificate by successfully completing the examination in the non-English language in which transitional bilingual education is offered. (In situations where a candidate was educated at a non-English university, the proficiency examination would be in English.) The certificate is valid for six years, during which time the individual may complete the coursework necessary for a bilingual endorsement or approval.

As to the final comment regarding “highly qualified”, it is assumed that the commenter was referring to being “highly qualified” under the federal No Child Left Behind Act of 2001 (NCLB). Pursuant to NCLB, teachers with primary responsibility for instructing students in the core academic subject areas (science, the arts, reading or language arts, English, history, civics and government, economics, geography, foreign language, and mathematics) are required to be “highly qualified” for those assignments. Appendix D of rules governing Certification (Part 25) addresses specific criteria for determining if an individual is considered “highly qualified” for his or her assignment. These criteria are set forth for kindergarten through grade 12 and do not apply to prekindergarten programs.

Recommendation

No changes are recommended in response to these comments.

Comment

Several commenters believed that the requirements for administrators of bilingual programs were burdensome and unnecessary. One person questioned whether an administrator had to be knowledgeable about bilingual education in order to be effective. Another went further, asking if there were any scientifically based data to show that administrators with bilingual certification were “better at meeting the needs of children who are English Language Learners”? Commenters asked that school districts be given flexibility to provide administrative support to bilingual programs in “a variety of ways” that take into consideration each district’s “limited resources”.

Analysis

The requirements for administrators to hold bilingual or English as a second language endorsement or approval, as applicable to the program, were first put in place in 2006 and originally appeared in the rules at Section 228.30(c). In response to public comment received at the time, the agency amended the rule, as originally proposed, to allow school districts two years to find individuals who met the new requirements, making them applicable to anyone hired after July 1, 2008. An individual hired before that date had four years — until July 1, 2010 — to meet the requirements.

The current proposed changes do not represent new mandates but simply strengthen the original rule by:
1. adding language that the supervisory endorsement is issued on a teaching certificate;
2. making clearer that administrators in districts serving fewer than 200 English language learners in transitional bilingual program or a transitional program of instruction are exempt from all but the requirement to hold an administrative certificate or supervisory endorsement;
3. allowing individuals administering a transitional bilingual program or a transitional program of instruction to hold an English as a New Language endorsement with a language designation or an English as a New Language endorsement, respectively, as well as bilingual or English as a Second Language endorsement or approval;
4. requiring eight hours of professional development annually starting in school year 2012-13 (rather than two hours) for administrators who hold only an administrative certificate or a supervisory endorsement issued on an initial or standard teaching certificate; and
5. requiring annually the submission to agency staff of an assurance that the administrator has completed the required professional development as a way for agency staff to ensure that districts are complying with the requirement.

Staff believe that the qualifications of administrators as set forth in the current rules remain appropriate. To ensure effective implementation, the individual assigned to administer the bilingual education program and who has decision-making authority should be knowledgeable about the learning needs of English language learners, second language acquisition and bilingual education in order to direct the program’s curriculum, instructional methodologies, assessment, data management and materials’ selection. The need for this knowledge is evident in the administrator’s responsibilities.

Further, the administrative requirements set forth in the rules are not arbitrary. The agency has the responsibility to ensure that the statutory and regulatory requirements for bilingual education programs are met and that high-quality education programs are established to meet the needs of English language learners and their parents. These programs are designed to help children build academic skills and knowledge with native language support while they acquire the English language skills necessary to succeed in the general education program.

Recommendation

No changes are recommended in response to these comments.

Comment

A question was posed as to why teacher assistants would be required to meet “unnecessary certification requirements”. These particular requirements were not specified in the comment submitted.

Analysis

Requirements for noncertificated personnel at Section 228.35(c)(3) pertain only to staff of preschool programs rather than to bilingual instruction provided at other grade levels. The addition in Part 228 of this cross-reference to Part 235 (Early Childhood Block Grant) alerts school districts to, and enables them to review, long-standing requirements for noncertificated personnel in preschool programs that will apply equally to preschool programs serving English language learners.

Recommendation
No change is recommended in response to this comment.

## Miscellaneous

### Comment

Numerous requests were received stating that all community-based organizations should adhere to the requirements for the provision of bilingual education set forth in Article 14C of the School Code and Part 228, regardless of whether an organization’s preschool program is funded directly by the state or through a subgrant awarded by a school district. Commenters cited the “inequities” that would be created if state-funded community-based programs did not provide instruction to English language learners in the same manner as would be provided to students in school district-administered programs that are provided in community-based and school settings.

At the same time, several respondents believed that it would be “burdensome” for community-based grantees to meet the statutory and regulatory requirements for bilingual services. Likewise, they noted that it would be difficult for community-based programs receiving a subgrant from a school district to meet these requirements since the funding they receive does not fully cover the cost of the preschool program. Although not related to either of the two current rulemakings, one person urged the agency also to look at integrating bilingual education services into programs serving children and families participating in birth-to-age-3 initiatives.

Finally, one school district that awards subgrants to community-based organizations for preschool programs complained that it lacks the ability to adequately monitor those programs for compliance with bilingual education requirements.

### Analysis

As one of these commenters correctly noted, the agency has no authority under the law to require that services provided to English language learners in preschool programs delivered by community-based organizations and other eligible recipients comply with Article 14C and Part 228. The law and rules regulate school districts only. Simply because the agency is authorized by law to award preschool grants to entities other than school districts does not extend its authority to require that those other entities comply with all laws and rules that apply to school districts.

It should also be clarified that a school district that receives an Early Childhood Block Grant to establish a preschool program is allowed to subcontract with other eligible entities, including community-based organizations, to provide these services. In these situations, the school district maintains responsibility and accountability for ensuring that its subgrantees comply with the terms and conditions of the preschool program, including the provision of bilingual services to English language learners. Additionally, a school district must take action to remedy any program violations of a subgrantee or, should no corrective action be taken, withdraw the subgrantee’s funding to operate the program.

The unintended consequence of extending services under Article 14C to preschool students enrolled in school district programs may be that English language learners could receive different levels of services, depending on whether the direct recipient of an Early Childhood Block Grant is a school district or another eligible entity. It is important to note, however, that all
grantees receiving the Early Childhood program grants, including state-funded community-based programs, have always been required to provide services specific to the individual needs of each student. To best determine these needs, each child is screened. The screening includes assessing a child’s level of English proficiency and, based on the screening results, developing a language and literacy development plan. Although they are not subject to the requirements of Article 14C and Part 228, community-based preschool programs may choose to implement a model that includes components similar to those required under transitional bilingual education programs and transitional programs of instruction.

Recommendation

No changes are recommended in response to these comments.

Comment

Questions were raised about the type of bilingual instructional models that will be employed in preschool programs. Several comments received on this issue objected to providing instruction to preschool students in their native language, which would constitute a transitional bilingual education program. This type of instruction might create “segregated schooling opportunities”, an individual argued. One person asked that school districts be allowed to delay placement of students in transitional bilingual programs until kindergarten for those who have been identified as English language learners. Another advocated for “local control”, stating that a “one-size-fits-all” approach would prevent districts from ascertaining and meeting the needs of the students they would be serving.

Conversely, one supporter pointed out that providing the same instructional models for preschool English language learners as are provided in elementary and secondary settings will ensure that “transition from one institution to another is smooth and coordinated”. She noted that without formal bilingual services being provided, some English language learners will lack the “‘academic’ or ‘cognitive’ English that is needed to be successful in kindergarten”. The provision of an appropriate bilingual education will help English language learners continue to develop skills in their home language as well as in English. Someone else pointed out that the best instructional approach is “dual-language” programs employing both English and home language instruction.

Analysis

Section 14C-3 requires school districts to establish a transitional bilingual program for each language classification once the number of students in that language classification is 20 or more within an attendance center of the district, and the agency cannot by rule change a statutory requirement. It should be noted that school districts may implement various types of transitional bilingual education programs that maximize interaction between English language learners and English-speaking peers (for example, a dual language program that integrates language minority and language majority students and is designed to teach students a second language through subject content instruction and everyday classroom conversation).

Recommendation

No changes are recommended in response to these comments.

Comment
Along the same lines as the comments received above, a respondent asked that the rules clarify the point at which a transitional bilingual program is required to be provided and when a district may choose to provide a transitional program of instruction. That is, does the “20 or more students in the same language classification” refer to students within a grade level or across all grade levels in an attendance center? The number of students in a given language classification within an attendance center is used by the district to determine whether those students are served through a transitional bilingual education program or a transitional program of instruction.

The same individual also asked that prekindergarten and kindergarten students be counted separately from students in grade 1 through 12 in making this determination, and that districts have the latitude to determine part-time or full-time placement based on the proficiency levels of the students within the language classification.

Analysis

Section 14C-3 refers to the number of students within an attendance center rather than the number in a particular grade level. Section 228.25(a)(1) and (2) use the statutory language (noted by the italicized text) that includes the reference to “an attendance center” so no further clarification specific to grade-level counts is needed in the rules. The proposed insertion of the grade levels to which this requirement applies, however, has the potential to create confusion in the field, as evidenced by this comment, and its intent can be improved by modifying the language of the rules.

The rationale is twofold for including an attendance center’s kindergarten students when determining the bilingual education model to be used (i.e., transitional bilingual education program or transitional program of instruction): it better aligns with teacher certification requirements and minimizes staffing constraints. For example, teachers with elementary certification are qualified to teach students in kindergarten through grade 9. In addition, transitional bilingual education programs in elementary schools that serve a small number of students may employ one or more teachers to work with children from multiple grades.

Moreover, it is appropriate to count preschool students separately from kindergarten-through-grade-12 students in an attendance center that houses the preschool program. A school district is not required to serve preschool students since it is an optional program funded under a competitive grant. Often the preschool program, which is geared towards at-risk students, is offered in only one of the district’s attendance centers, which may skew the total number of students who are limited English proficient in that school. Additionally, only a teacher who holds an early childhood certification may provide instruction in a preschool program.

As for full- and part-time provision of services, Section 228.30(c)(3) requires that the State Superintendent set a minimum English language proficiency level to be used for part-time placement in a transitional bilingual program (also see analysis beginning on page 12). When making a part-time placement decision for a student, the rules also require a school district to consider prior performance, if any, in coursework taught exclusively in English; current academic performance; and other relevant factors, such as age, disability, and cultural background.

Recommendation
It is recommended that the following changes be made in Sections 228.25(a)(1) and (2).

a) Program Options and Placement

1) When an attendance center has an enrollment of 20 or more limited English proficient students of the same language classification in kindergarten or any of grades 1 through 12, the school district must establish a transitional bilingual education (TBE) program for each language classification represented by those students (Section 14C-3 of the School Code). A further assessment of those students to determine their specific programmatic needs or for placement in either a full-time or a part-time program may be conducted. This subsection (a)(1) applies only to students enrolled in kindergarten or any of grades 1 through 12 in an attendance center.

2) When an attendance center has an enrollment of 19 or fewer students of limited English proficiency of any single language classification other than English in kindergarten or any of grades 1 through 12, the school district shall conduct an individual student language assessment to determine each student’s need for native language instruction and may provide a transitional bilingual program in the languages other than English common to these students. If the district elects not to provide a transitional bilingual program, the district shall provide a locally determined transitional program of instruction (TPI) for those students. (Section 14C-3 of the School Code.) This subsection (a)(2) applies only to students enrolled in kindergarten or any of grades 1 through 12 in an attendance center.

Comment

One person asked how a student’s dialect of a primary language, such as Chinese, should be treated in making placements and when determining the instructional model to be used (transitional bilingual education program or transitional program of instruction).

Analysis

Chinese dialects, such as Mandarin and Catonese, are considered to be different languages in accordance with standard language classifications. It is important that all students in a bilingual classroom understand the language spoken by the teacher so placement in a transitional bilingual education program must coincide with the student’s home language.

Recommendation

No change is recommended in response to this comment.

Comment

Several commenters objected to what they described as a new requirement for school districts to provide summer school programs. (See Section 228.30(a)(6).)

Analysis
The provision of the rules to which they refer is taken verbatim out of the law. The intent of the requirement is to alert school districts that choose to offer summer school programs that they must provide transitional bilingual education programs or transitional programs of instruction for students attending who are identified as an English language learners. The proposed revision to that section simply clarifies that interpretation of the law. The provision does not mandate the provision of summer school for English language learners who choose not to enroll in the summer session.

Recommendation

No change is recommended in response to this comment.

Comment

A commenter questioned whether a preschool program with more than 20 students in a single language classification would require more than one teacher who holds an early childhood certificate.

Several other individuals indicated that extending to kindergarten the requirement that bilingual class sizes not exceed 90 percent of the average student-teacher ratio in general education classrooms has “no scientific basis”. Another asked that the requirement for class sizes not to exceed 90 percent of the average student-teacher ratio be aligned to the requirement in rules governing the Early Childhood Block Grant that limits class size to no more than 20 students.

Analysis

Rules governing the Early Childhood Block Grant (see Section 235.30(d)) set forth the student-staff ratio for a preschool classroom of one staff member for every 10 students, with no more than 20 students being served in a classroom. This restriction typically means that a preschool classroom would have at least an early childhood certified teacher, and when class sizes exceed 10 students, another teacher or aide is employed. Therefore, if a preschool program has more than 20 students in a single language classification, then additional classrooms, each with its own early childhood certified teacher, would need to be established. Each classroom would be required to have an early childhood certified teacher, but the bilingual services could be provided among several classrooms by using a qualified bilingual teacher, employing a team-teaching approach, or having the bilingual teacher rotate among the early childhood classrooms to provide services and support. The proposed rule is intended to exempt preschool classrooms from the 90 percent requirement since Part 235 governs the establishment of those programs. A slight modification to the language as proposed will make that intent clearer.

Section 228.30(b) also is being modified to explicitly state that the 90 percent rule applies to kindergarten as well as to grades 1 through 12. Prior to the addition of language to reference class size restrictions for early childhood programs, there was no need to specify that the rules applied to kindergarten as well as grades 1 through 12.

Recommendation

It is recommended that Section 228.30(b)(1) be changed as follows.
(b)(1) Student-Teacher Ratio - The student-teacher ratio in the ESL and native language components of programs serving students in kindergarten or any of grades 1 through 12 as of September 30 of each school year shall not exceed 90% of the average student-teacher ratio in general education classes for the same grades in that attendance center. Decreases in the ratio for general education during the course of a school year due to students’ mobility shall not require corresponding adjustments within the bilingual program. Further, additional students may be placed into bilingual classes during the course of a school year, provided that no bilingual classroom may exhibit a student-teacher ratio that is greater than the average for general education classes in that grade and attendance center as a result of these placements. For preschool programs established pursuant to Section 2-3.71 of the School Code [105 ILCS 5/2-3.71], the student-teacher ratios for each preschool classroom providing that provide bilingual education services shall meet the requirements of 23 Ill. Adm. Code 235.30(d) (Early Childhood Block Grant) rather than the requirements of this subsection (b)(1).

Comment

Suggestions were made to add an overall definition for “bilingual education services”. Alternately, it was recommended that terms such as “bilingual”, “transitional program of instruction”, “English as a second language” (ESL), and “sheltered” be defined under Section 228.30(a) (“Establishment of Programs”).

Analysis

The term “bilingual education services” appears in 228.30(a)(6). In this context, it is intended to refer to a transitional bilingual education program or transitional program of instruction, so a clarification in the proposed amendments is advisable.

Defining the other terms mentioned mirrors comments received during the last rulemaking in 2006. As the agency noted at that time, Sections 228.30(c) and (d) provide as much definition as is needed for the terms “transitional bilingual education” and “transitional program of instruction” to be understood, in that these sections discuss what must be included in each type of program. Inclusion of definitions in Section 228.10 would introduce unnecessary redundancy. The rules can be clarified, however, if cross-references to Sections 228.30(c) and (d) are added at the first instance where each term is used.

Further, ESL is defined in Section 228.10, and “sheltered” is not used in the rules,

Recommendation

It is recommended that Section 228.25(a)(1) and (a)(2) be changed as follows.

a) Program Options and Placement

1) When an attendance center has an enrollment of 20 or more limited English proficient students of the same language classification in kindergarten or any of grades 1 through 12, the school district must establish a transitional bilingual education (TBE) program for each language classification represented by those students (Section 14C-3 of
the School Code; also see Section 228.30(c) of this Part). A further assessment of those students to determine their specific programmatic needs or for placement in either a full-time or a part-time program may be conducted.

2) When an attendance center has an enrollment of 19 or fewer students of limited English proficiency of any single language classification other than English in kindergarten or any of grades 1 through 12, the school district shall conduct an individual student language assessment to determine each student’s need for native language instruction and may provide a transitional bilingual program in the languages other than English common to these students. If the district elects not to provide a transitional bilingual program, the district shall provide a locally determined transitional program of instruction (TPI) for those students. (Section 14C-3 of the School Code; also see Section 228.30(d) of this Part.)

It is recommended that Section 228.30(a)(6) be changed as follows.

(a)(6) Preschool and Summer School - A school district may establish preschool and summer school programs for students of limited English proficiency, or join with other school districts in establishing such programs. Summer school programs shall not replace programs required during the regular school year. (Section 14C-11 of the School Code [105 ILCS 5/14C-11]) A school district that offers a summer school program or preschool program shall provide transitional bilingual education programs or transitional programs of instruction bilingual education services for students having limited English proficiency in accordance with Article 14C and this Part.

Comment

Also in Section 228.10, “Definitions”, a commenter questioned the expansion of the definition for “home language”, indicating that the inclusion of the language of anyone who lives in the student’s home is “too broad” and will result in “too many children being referred for a screening”. Another commenter noted that the expanded definition also does not align with the questions posed in the home language survey (see Section 228.15(a)).

Also questioned was the rules’ use of both “home language” and “native language”. The latter term is not defined, it was pointed out, and so it is not clear whether there is a distinction between “home language” and “native language” as used in the rules. The lack of distinction between the two terms could create “data recording and reporting issues” for the district since it does not know the “source of information” it must use when reporting a student’s home language and native language.

Analysis

The commenter’s point concerning the inclusion in the definition of the “home language” of others living in a student’s home is well-taken and the rule will be revised to eliminate that criterion when determining a student’s home language.
This criterion also is used in the definition for “language background other than English” and its use there is appropriate. Language skills in young children develop, in part, by listening to the speech of parents and other caregivers. The language of a caregiver or other relative who lives in the home and spends time with the child regularly may be the basis for the child’s primary language development. Children who come from a home where a language other than English is spoken regularly may not have had sufficient exposure to English to develop strong English language skills, so it is appropriate to use this as a trigger for screening. Providing the screening ensures that the child’s academic progress is not unduly delayed if he or she has limited English proficiency. Consideration of the language of others in the home also aligns with the home language survey, which asks whether a language other than English is spoken in the student’s home and, if so, which language.

It is true that when discussing languages generally, that a student’s home language may not be the same language as his or her “native” language. For example, a family who speaks English may have adopted a child who only speaks Russian, which neither parent knows. In the context of the rules, however, “home language” and “native language” are used interchangeably, and so the definition of “home language” should be clarified.

As to the use of the terms for data collection purposes, the Student Information System includes definitions for all data elements collected. Once the rules are in effect, the Division of English Language Learning will review these definitions to ensure that they align with the rules.

**Recommendation**

It is recommended that the definition of “home language” in Section 228.10 be changed as follows.

“Home Language” means that language normally used in the home by the student and/or by the student’s parents or legal guardians, or by anyone who resides in the student’s household.

It also is recommended that “home language” be used throughout the rulemaking in place of “native language”. This change would be made in Sections 228.10, 228.25, 228.27, 228.30 and 228.35.

**Comment**

A question was posed about a student who transfers into a school district with records showing that he or she met English proficiency requirements more than 12 months ago and has been “exited” from a bilingual program, and whether that student should receive bilingual services in the new school if the results of a screening there identifies the student as an English language learner.

**Analysis**

The district to which a student is transferring should not administer a new screening test if that student’s records show that he or she achieved English language proficiency in his or her previous school district and that district “exited” the student from either the transitional bilingual education program or the transitional program of instruction.

**Recommendation**
No change is recommended in response to this comment.

Comment

A commenter urged the agency to “accurately collect” data necessary to “identify needed services and evaluate program effectiveness”. This would include data elements pertaining to whether the student also is identified as at risk or has disabilities, the types of additional services provided, and the type of program in which the student was served.

Analysis

Section 228.20 requires that information relative to the provision of bilingual education services be included in a student’s record maintained in the electronic Student Information System (SIS). The information specified in the rules includes the student’s home language and his or her academic achievement level. The specific information required under the rules is general in nature and would not provide the type of data the commenter was envisioning; however, other data are collected via the SIS. This other data include placement information (transitional bilingual education, transitional program of instruction, self-contained special education or general education classroom), as well as the student’s participation in various programs or receipt of other services.

A review of the requirements for the annual application in Section 228.50(b) also may alleviate some concerns about the need to expand data collection efforts. Starting with the 2010-11 funding cycle, applications will be submitted through the agency’s Electronic Grants Management System (eGMS), allowing for staff to easily access program service levels and student demographics.

Recommendation

No change is recommended in response to this comment.

Comment

One person asked that separate standards for Spanish language arts not be promulgated and that those standards instead be integrated with those established for English language arts. Another asked that the agency clarify how school districts are to measure students’ progress in meeting the Spanish language arts standards and whether the agency would be developing a tool that districts can use for this purpose. Others questioned why only Spanish was being mandated and complained that school districts will need to purchase Spanish curricular and assessment materials beyond what is now needed in bilingual classrooms. It was also stated that requiring mastery of the language arts in Spanish exceeds the requirements of the federal No Child Left Behind Act of 2001.

Analysis

Approximately 80 percent of the English language learners in Illinois public schools are native speakers of Spanish. The Spanish Language Arts Standards are intended to allow Spanish-speaking students access to instruction that will promote literacy in their native language, with all the advantages that such literacy is known to bring in terms of English language learning. The standards provide the framework to direct the development of the Spanish language arts
curriculum used in a transitional bilingual education program, provide for continuity across grade levels and across school districts, and guide instruction and assessment at the classroom level.

The Spanish Language Arts Standards are aligned to the existing Illinois Learning Standards for English Language Arts (set forth in rules at 23 Ill. Adm. Code 1.Appendix D), so they are parallel but not identical to the standards to which English language learners will be held in their English coursework. That is, the Spanish Language Arts Standards incorporate language usage standards and conventions of the Spanish language.

**Recommendation**

No changes are recommended in response to these comments.

**Comment**

Several comments addressed different aspects of parental notification. For instance, the rules do not specify requirements for notice to parents of preschool students, particularly regarding the child’s continuation in the program in the following year. This same commenter also asked whether a school district must provide notice if a qualified teacher is not available (it is assumed by “qualified” that the commenter meant an individual who holds both an early childhood teaching certificate and either a transitional bilingual certificate or bilingual or English as a second language approval or endorsement). She also asked that Section 228.40(a) be amended to specify “school” days.

Another commenter asked that latitude be given to school districts in providing both notices and progress reports in the student’s home language when a translator may not be available or in instances where there is a low enrollment of students in that language classification.

**Analysis**

Nothing in the law or rules would require that notices provided to the parents of preschool students be less specific or contain different information than those sent to parents of students in other grade levels. Section 14C-4 of the School Code lists the required components of a parental notification. Additionally, the lack of a qualified teacher, in either a preschool program or at other grade levels, does not negate the school district’s responsibility to provide the required notices.

The agency cannot change the 30-day requirement by rule since this language is verbatim from what is in the statute. Section 1.11 of the Statute on Statutes (5 ILCS 70/1.11) provides a process for determining the time whereby any action mandated by law must occur. The language of that statute clearly contemplates calendar days and is copied below.

> Sec. 1.11. The time within which any act provided by law is to be done shall be computed by excluding the first day and including the last, unless the last day is Saturday or Sunday or is a holiday as defined or fixed in any statute now or hereafter in force in this State, and then it shall also be excluded. If the day succeeding such Saturday, Sunday or holiday is also a holiday or a Saturday or Sunday then such succeeding day shall also be excluded.

The same rationale (i.e., statutorily mandated) can be used for supporting the provision of notices in the student’s home language. The law is specific and did not provide flexibility to
prepare notices in a student’s home language only when translation is “feasible and necessary”, using the phrase that the commenter asked to be inserted in Sections 228.40(a)(1).

The commenter wanted similar language inserted in Section 226.40(c)(1)(C) regarding progress reports, and agency staff recognize that districts face challenges in finding translators for certain languages. It is important, however, that parents be informed of their child’s school performance in a language that they understand. Home school communication is key to supporting a student’s learning and ability to achieve academically in school. If the parents who speak English, including parents of foreign adoptees and bilingual parents, do not need progress reports to be translated into their home language, then the rules provide for a process so that the required translation can be waived.

**Recommendation**

No changes are recommended in response to these comments.

**Comment**

An individual asked if a student receiving bilingual education services in preschool and kindergarten will have that time included in the three years in which he or she can be served under Section 14C-3 of the School Code.

**Analysis**

Section 228.40(b)(1) provides that a student’s participation in a transitional bilingual program or a transitional program of instruction in preschool or kindergarten does not count towards the three-year total specified in Section 14C-3 of the School Code.

**Recommendation**

No change is recommended in response to this comment.

**Comment**

Several commenters asked that the agency provide information and resources to directors and staff of school districts and preschool programs to help them implement bilingual education programs that meet the requirements of the law and rules. Chief among these resources were guidance, professional development, models and examples of classroom practices, and online resources. For the preschool setting specifically, useful materials could address language development, second language acquisition, and best practices for serving English language learners.

**Analysis**

Both the divisions of English Language Learning and Early Childhood provide a variety of support and other technical assistance to school districts and other recipients of grant funds. Many of the requirements contained in Article 14C and Part 228 are new to preschool education programs, so staff will make resources available to directors of both district bilingual and early childhood programs through direct communication with districts, posting of materials on the ISBE website, and provision of workshops and presentations at state conferences and meetings.
Recommendation

No changes are recommended in response to these comments.
SECTION 228.5 Purpose and Applicability

a) This Part establishes requirements for school districts’ provision of services to students in preschool through grade 12 who have been identified as limited English proficient in accordance with Article 14C of the School Code [105 ILCS 5/14C] and this Part.
b) The requirements of Article 14C of the School Code and this Part shall apply to every school district in Illinois, regardless of whether the district chooses to seek funding pursuant to Section 228.50 of this Part.

(Source: Added at 34 Ill. Reg. _____, effective _____________)

Section 228.10 Definitions

“Bilingual Education Teacher” means a teacher who:

holds a valid Illinois certificate with an endorsement or approval in bilingual education or an endorsement in ENL with a language specific designation for bilingual education (see 23 Ill. Adm. Code 25.Appendix E and 23 Ill. Adm. Code 1.780 and 1.781); or

holds a Transitional Bilingual Certificate endorsed for teaching in a language other than English and issued by the State Board of Education in accordance with 23 Ill. Adm. Code 25.90; or

holds a Visiting International Teacher Certificate and meets the requirements of 23 Ill. Adm. Code 25.92(i).

“English as a Second Language” or “ESL” or “English as a New Language” or “ENL” means specialized instruction designed to assist students whose home language is other than English in attaining English language proficiency. ESL or ENL instruction includes skills development in listening, speaking, reading, and writing. (ESL is and ENL are not to be confused with English language arts as taught to students whose home language is English.)

“English Language Proficiency Assessment” means the ACCESS for ELLs® (World-class Instructional Design and Assessment Consortium, Wisconsin Center for Education Research (WCER), University of Wisconsin-Madison, 1025 West Johnson Street, MD#23, Madison WI 53706 (2006)).

“Home Language” means that language normally used in the home by the student and/or by the student’s parents or legal guardians.
“Language Background other than English” means that the home language of a student in preschool, kindergarten or any of grades 1 through 12, whether born in the United States or born elsewhere, is other than English or that the student comes from a home where a language other than English is spoken, by the student, or by his or her parents or legal guardians, or by anyone who resides in the student’s household.

“Preschool Program” means instruction provided to children who are ages 3 up to but not including those of kindergarten enrollment age as defined in Section 10-20.12 of the School Code [105 ILCS 5/10-20.12] in any program administered by a school district, regardless of whether the program is provided in an attendance center or a non-school-based facility.

“Prescribed Screening Instrument” means the assessment tool prescribed by the State Superintendent of Education to be used by all school districts with students enrolled in kindergarten or any of the grades 1 through 12 to determine a student’s level of proficiency in English and placement in a bilingual education program WIDA ACCESS Placement Test (W-APT)™ (World-class Instructional Design and Assessment Consortium, Wisconsin Center for Education Research (WCER), University of Wisconsin-Madison, 1025 West Johnson Street, MD#23, Madison WI 53706 (2006)).

“Prescribed Screening Procedures” means the procedures that a school district determines to be appropriate to assess a preschool student’s level of English proficiency in order to determine whether the student is eligible to receive bilingual education services. The procedures may include without limitation established screening instruments or other procedures, provided that they are research-based and are related to and able to measure the child’s English proficiency in at least the domains of listening and speaking to include vocabulary, comprehension, grammar and syntax, and verbal expression.

“Standard School Program” means the educational program offered by the local school district to the majority of its students (“general education”).

“Students of Limited English Proficiency” means students in preschool, kindergarten or any of grades 1 through 12, whether born in the United States or born elsewhere, whose home native language background is a language other than
English and whose difficulties in speaking, reading, writing, or understanding English may be sufficient to deny them:

the ability to meet the State’s proficient level of achievement on State assessments;

the ability to successfully achieve in classrooms where the language of instruction is English; or

the opportunity to participate fully in the school setting.

“Students of Non-English Background” means students, whether born in the United States or born elsewhere, whose native language is other than English or students who come from homes where a language other than English is spoken, either by the students themselves, or by their parents or legal guardians.

“Teacher of English as a Second Language” or “Teacher of English as a New Language” means a teacher who:

holds a special certificate endorsed for teaching ESL or ENL, issued by the State Board of Education in accordance with 23 Ill. Adm. Code 25; or

holds a valid Illinois certificate and an endorsement or approval for ESL, issued by the State Board of Education pursuant to 23 Ill. Adm. Code 1.780, 1.781, and 1.782; or

meets the requirements set forth in 23 Ill. Adm. Code 1.782.

(Source: Amended at 34 Ill. Reg. _____, effective ______________)

Section 228.15 Identification of Eligible Students

a) Each school district shall administer a home language survey with respect to each student in preschool, kindergarten or any of grades 1 through 12 who is entering the district’s schools or any of the district’s preschool programs for the first time, for the purpose of identifying students who have a non-English language background other than English. The survey should be administered as part of the enrollment process, or for preschool programs, by the first day the student

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commences participation in the program. The survey shall include at least the following questions, and the student shall be identified as having a non-English language background other than English if the answer to either question is yes:

1) Whether a language other than English is spoken in the student’s home and, if so, which language; and

2) Whether the student speaks a language other than English and, if so, which language.

b) The home language survey shall be administered in English and, if feasible, in the student’s home language.

c) The home language survey form shall provide spaces for the date and the signature of the student’s parent or legal guardian.

d) The completed home language survey form shall be placed into the student’s temporary record as defined in 23 Ill. Adm. Code 375 (Student Records).

e) The district shall, using the prescribed screening instrument, screen the English language proficiency of each student identified through the home language survey as having a language non-English background other than English by using the prescribed screening instrument applicable to the student’s grade level (i.e., kindergarten or any of grades 1 through 12) or the prescribed screen procedures identified by the preschool program. This screening assessment shall take place within 30 days either after the student’s enrollment in the district or, for preschool programs, after the student commences participation in the program, for the purpose of determining the student’s eligibility for bilingual education services and, if eligible, the appropriate placement for the student. For kindergarten, all students identified through the home language survey, including students previously screened when enrolled in preschool, must be screened using the prescribed screening instrument for kindergarten.

1) The prescribed screening instrument does not need to be administered to a student who, in his or her previous school district:

   A) has been screened and identified as English language proficient as required in this subsection (e); or
B) has met the State exit requirements as described in Section 228.25(b)(2) of this Part; or

C) has met all of the following criteria:

i) resides in a home where a language other than English is spoken, and

ii) has not been screened or identified as a student with limited English proficiency, and

iii) has been enrolled in the general program of instruction in the school he or she has previously attended, and

iv) has been performing at or above grade level as evidenced by having met or exceeded the Illinois Learning Standards in reading and math on the student’s most recent State assessment administered pursuant to Section 2-3.64 of the School Code [105 ILCS 5/2-3.64], or for students for whom State assessment scores are not available, a nationally normed standardized test, provided that either assessment was not administered with accommodations for students of limited English proficiency. This provision applies only to a student who had been enrolled in any of the grades in which the State assessment is required to be administered in accordance with Section 2-3.64 of the School Code.

2) For purposes of eligibility and placement, a district may rely upon a student’s score attained on the prescribed screening instrument or on the English language proficiency assessment instrument prescribed under Section 228.25(b) of this Part, if either is available from another school district or another state, provided that the score was achieved no more than 12 months prior to the district’s need to assess the student’s proficiency in English for purposes of eligibility and placement.

3) If results are not available pursuant to subsection (e)(2) of this Section, then a district must rely upon a student’s score on the prescribed screening
instrument if available from another school district or another state for the purposes of eligibility and placement for students entering any of grades 1 through 12, if the student’s score on the prescribed screening instrument was achieved no more than 12 months prior to the district’s need to assess the student’s proficiency in English.

4) Each student whose score on the prescribed screening instrument or procedures, as applicable, is identified as not “proficient” as defined by the State Superintendent of Education shall be considered to have limited English proficiency and therefore to be eligible for, and shall be placed into a program of, bilingual education services.

A) For preschool programs using a screening procedure other than an established assessment tool where “proficiency” is defined as part of the instrument, “proficiency” is the point at which performance identifies a child as proficient in English, as set forth in the program’s proposed screening process.

B) For any preschool However, even if the student who scores at the “proficient” level, the school district may consider additional indicators such as the results of criterion referenced or locally developed tests, teachers’ evaluations of performance, samples of a student’s work, or information received from family members and school personnel in order to determine whether the student’s proficiency in English is limited and the student is eligible for services.

3) Students who, based on review of assessment scores and other evidence—such as that outlined in subsection (e)(2) of this Section, are judged to be of limited English proficiency shall be eligible for, and shall be placed into a program of, bilingual education services.

f) Each district shall ensure that any accommodations called for in the Individualized Education Programs of students with disabilities are afforded to those students in the administration of the screening instrument or procedures, as applicable, discussed in this Section and the English language proficiency assessment prescribed under Section 228.25(b) 228.25(e) of this Part.
g) The parent or guardian of any child resident in a school district who has not been identified as having limited English proficiency may request the district to determine whether the child should be considered for placement in a bilingual education program, and the school district shall make that determination upon request, using the process described in this Section. A determination contested by a parent or legal guardian may be appealed to the regional superintendent of schools for the region in which the district is located, pursuant to the provisions of Section 3-10 of the School Code [105 ILCS 5/3-10].

(Source: Amended at 34 Ill. Reg. _____, effective ______________)

Section 228.20 Student Language Classification Data Public School Bilingual Census

a) In order to meet the requirements of Section 14C-3 of the School Code, every school district shall update its individual student records in the Student Information System (SIS) authorized under 23 Ill. Adm. Code 1.75 (Public Schools Evaluation, Recognition and Supervision) no later than the first day in March of each year to reflect the following information: No later than the first day of March of each year, every school district shall submit a bilingual census report for that school year to the State Superintendent of Education (Section 14C-3 of the School Code [105 ILCS 5/14C-3]). The bilingual census report shall be submitted on forms provided by the Superintendent and shall include:

1) whether the student has a language other than English in each attendance center, as identified via the home language survey;

2) whether the student has been identified as having limited English proficiency based on the results of the prescribed screening instrument or procedures, as applicable, or the English language proficiency assessment and other factors discussed in Section 228.15(e) or Section 228.25(b) of this Part; and

3) the home language, birth date, language levels, ages, and grade or achievement level levels of the students identified as having limited English proficiency.

b) A district may use the number of students who have been identified in its census report as having limited English proficiency and who are thus eligible for
bilingual education services as a preliminary count for the purpose of submitting a
program application pursuant to Section 228.50 of this Part.

(Source: Amended at 34 Ill. Reg. _____, effective ______________)

Section 228.25 Program Options, Placement, and Assessment

a) Program Options and Placement

1) When an attendance center has an enrollment of 20 or more limited
   English proficient students of the same language classification the school
district must establish a transitional bilingual education (TBE) program
for each language classification represented by those students (Section
14C-3 of the School Code; also see Section 228.30(c) of this Part.). A
further assessment of those students to determine their specific
programmatic needs or for placement in either a full-time or a part-time
program may be conducted. This subsection (a)(1) applies only to students
enrolled in kindergarten or any of grades 1 through 12 in an attendance
center.

b) 2) When an attendance center has an enrollment of 19 or fewer students of
limited English proficiency from any single non-English language
classification other than English, the school district shall conduct an
individual student language assessment to determine each student’s need
for home native language instruction and may provide a transitional
bilingual program in the non-English languages other than English
common to these such students. If the district elects not to provide a
transitional bilingual program, the district shall provide a locally
determined transitional program of instruction (TPI) for those students.
(Section 14C-3 of the School Code; also see Section 228.30(d) of this
Part.) This subsection (a)(2) applies only to students enrolled in
kindergarten or any of grades 1 through 12 in an attendance center.

3) When a preschool program of the school district has an enrollment of 20
or more students of limited English proficiency of any single language
classification other than English in an attendance center or a non-school-
based facility, the school district shall establish a TBE program for each
language classification represented by the students. If the preschool
program of an attendance center or non-school-based facility has 19 or fewer students of limited English proficiency of any single language classification other than English, then the school district shall meet the requirements of subsection (a)(2) of this Section when determining placement and the program to be provided.

b(c) English Language Proficiency Assessment Annual Examination

1) School districts must annually assess the English language proficiency, including aural comprehension (listening), speaking, reading, and writing skills, of all children of limited English-speaking ability in kindergarten and any of grades 1 through 12 students enrolled in programs (Section 14C-3 of the School Code) using the English language proficiency assessment prescribed by the State Superintendent of Education. This assessment shall be administered during a testing window designated by the State Superintendent, for the purpose of determining individual students’ continuing need and eligibility for bilingual education services. The annual assessment shall be based on the “English Language Proficiency Standards for English Language Learners in PreKindergarten through Grade 12” “Framework for Large-Scale Assessment of the English Language Proficiency Standards for English Language Learners – K–12” (2007 2004), published by the Board of Regents of the University of Wisconsin System on behalf of the WIDA Consortium State of Wisconsin and posted at http://www.wida.us/standards/elp.aspx www.isbe.net/bilingual/pdfs/elps_framework.pdf. No later amendments to or editions of these standards are incorporated by this Section.

2) The State Superintendent shall determine, and inform school districts of, the composite score and the literacy score that will be used to determine whether a student is identified as “proficient”.

A) Each student whose score on the English language proficiency assessment is identified as “proficient” shall be considered eligible to exit the program of bilingual education services, subject to the provisions of Section 14C-3 of the School Code [105 ILCS 5/14C-3]. However, the school district may also consider other indicators such as those listed in Section 228.15(e)(2) of this Part to determine whether individual students continue to exhibit...
limited English proficiency and remain eligible for bilingual education services, subject also to the provisions of Section 14C-3 of the School Code [105 ILCS 5/14C-3].

B) Each student whose score is identified as “proficient” in accordance with subsection (b)(2)(A) of this Section shall no longer be identified as limited English proficient.

3) Beginning with the 2007 administration of the annual English language proficiency examination, each student who is not enrolled in a program under this Part but who has been identified as having limited English proficiency at any time since 2006 shall be required to participate in the annual examination each year until he or she achieves a “proficient” score.

(Source: Amended at 34 Ill. Reg. _____, effective ______________)

Section 228.27 Language Acquisition Services for Certain Students Exiting the Program

In accordance with Section 1703(f) of the Equal Educational Opportunities Act (EEOA), a school district must provide services that will enable limited English proficient students to overcome barriers that impede equal participation by these students in the district’s instructional programs (see 20 USC 1703). Section 14C-3 of the School Code, however, authorizes school districts to discontinue services to students who have been enrolled and participated in the TBE or TPI program for three consecutive years. In instances where a school district chooses to discontinue TBE or TPI program services as permitted under Section 14C-3 of the School Code for those students who have not achieved English proficiency as determined by the process set forth in Section 228.25(b) of this Part, the district shall submit a plan to the State Superintendent that describes the actions it will take to meet its obligations under Section 1703(f) of the EEOA. Any amendments to the plan shall be submitted to the State Superintendent no later than 30 days following adoption of the changes. The plan shall at least include:

a) the process and criteria the district will use to make a determination of when to exit eligible students from the TBE or TPI program (e.g., after a certain amount of time in the program, once a prescribed academic or proficiency level is achieved);
b) The language acquisition services and methods to be provided, including how the services and methods differ from the general program of instruction in content, instructional goals, and the use of English and home language instruction;

c) How the program will meet the educational needs of the students and build on their academic strengths;

d) How the program will specifically help the students learn English and meet academic achievement standards for grade promotion and graduation;

e) The names and qualifications of the staff who will implement the program; and

f) How sufficient resources, including equipment and instructional materials, shall be made available to support the program.

(Source: Added at 34 Ill. Reg. _____, effective ______________)

Section 228.30 Establishment of Programs

a) Administrative Provisions

1) Program Facilities – Other than for preschool education programs, TBE and TPI programs shall be located in regular public school facilities rather than in separate facilities. (Section 14C-6 of the School Code [105 ILCS 5/14C-6]) If such a location is not feasible, the substitute location shall be comparable to those made available to a majority of the district’s students with respect to space and equipment. If housed in a facility other than a public school (including a charter school), the school district shall provide a written explanation in its annual application to the State Superintendent of Education as to why the use of a public school building is not feasible.

2) Course Credit - Students enrolled in approved programs shall receive full credit for courses taken in these programs, which shall count toward promotion and fulfillment of district graduation requirements. Courses in ESL shall count toward English requirements for graduation. Students who change attendance centers or school districts shall do so without loss of credit for coursework completed in the program.
3) *Extracurricular Activities* - Each district shall ensure that students enrolled in programs shall have the opportunity to participate fully in the extracurricular activities of the public schools in the district. (Section 14C-7 of the School Code [105 ILCS 5/14C-7])

4) Inclusion of Students Whose First or Home Language is English - Students whose first or home language is English may be included in a program under this Part provided that all students of limited English proficiency are served.

5) Joint Programs - A school district may join with one or more other school districts to provide joint programs or services in accordance with the provisions of Section 10-22.31a of the School Code [105 ILCS 5/10-22.31a]. The designated administrative agent shall adhere to the procedures contained in 23 Ill. Adm. Code 100 (Requirements for Accounting, Budgeting, Financial Reporting, and Auditing) 110 (Program Accounting Manual) as they pertain to cooperative agreements.

6) Preschool and Summer School - *A school district may establish preschool and summer school programs for students of limited English proficiency, or join with other school districts in establishing such programs. Summer school programs shall not replace programs required during the regular school year.* (Section 14C-11 of the School Code [105 ILCS 5/14C-11]) A school district that offers a summer school program or preschool program shall provide transitional bilingual education programs or transitional programs of instruction for students having limited English proficiency in accordance with Article 14C and this Part.

b) Instructional Specifications

1) Student-Teacher Ratio - The student-teacher ratio in the ESL and home native language components of programs serving students in kindergarten or any of grades 1 through 12 as of September 30 of each school year shall not exceed 90% of the average student-teacher ratio in general education classes for the same grades in that attendance center. Decreases in the ratio for general education during the course of a school year due to students’ mobility shall not require corresponding adjustments within the
bilingual program. Further, additional students may be placed into bilingual classes during the course of a school year, provided that no bilingual classroom may exhibit a student-teacher ratio that is greater than the average for general education classes in that grade and attendance center as a result of such these placements. Preschool programs established pursuant to Section 2-3.71 of the School Code [105 ILCS 5/2-3.71] that provide bilingual education services shall meet the requirements of 23 Ill. Adm. Code 235.30(d) (Early Childhood Block Grant) rather than the requirements of this subsection (b)(1).

2) Grade-Level Placement - Students enrolled in a program of transitional bilingual education shall be placed in classes with students of approximately the same age or grade level, except as provided in subsection (b)(3) of this Section. (Section 14C-6 of the School Code)

3) Multilevel Grouping - If students of different age groups or educational levels are combined in the same class, the school district shall ensure that the instruction given each student is appropriate to his/her age or grade level. (Section 14C-6 of the School Code) Evidence of compliance with this requirement shall be:

A) individualized instructional programs; or

B) grouping of students for instruction according to grade level.

4) Beginning with the 2012-13 school year, instruction in Spanish language arts, where provided under subsection (c) or (d) of this Section, shall be aligned to the standards that are appropriate to the ages or grade levels of the students served, which are set forth in the document titled “World-Class Instructional Design and Assessment: Spanish Language Arts Standards” (2005) published by the Board of Regents of the University of Wisconsin System on behalf of the WIDA Consortium and posted at http://www.wida.us/standards/sla.aspx. No later amendments to or editions of these standards are incorporated by this Section.

5) Language Grouping - School districts may place students of limited English proficiency who have different home languages in the same class, provided that, in classes taught in the home native language:
A) instructional personnel or assistants representing each of the languages in the class are used; and

B) the instructional materials are appropriate for the languages of instruction.

6) Program Integration – *In courses of subjects in which language is not essential to an understanding of the subject matter, including, but not necessarily limited to, art, music, and physical education, students of limited English proficiency shall participate fully with their English-speaking classmates.* (Section 14C-7 of the School Code)

e) Administrators

Beginning July 1, 2008, each individual newly assigned to administer a program under this Part shall meet the applicable requirements of this subsection (c). Administrators first assigned on or before June 30, 2008, shall be subject to the applicable requirements of this subsection (c) as of July 1, 2010.

1) Except as provided in subsections (c)(3) and (4) of this Section, any person designated to administer a TBE program must hold a valid administrative certificate or supervisory endorsement issued by the State Board of Education in accordance with applicable provisions of 23 Ill. Adm. Code 25 (Certification) and 23 Ill. Adm. Code 1 and must hold the bilingual approval or endorsement.

2) Except as provided in subsections (c)(3) and (4) of this Section, any person designated to administer a TPI program must hold a valid administrative certificate or supervisory endorsement issued by the State Board of Education in accordance with applicable provisions of 23 Ill. Adm. Code 25 and 1 and must hold the bilingual or ESL approval or endorsement.

3) A person designated to administer a TBE or TPI program in a district with fewer than 200 TBE/TPI students shall be exempt from the requirement for bilingual or ESL approval or endorsement, provided that he or she-
annually completes two hours of professional development specifically designed to address the needs of students with limited English proficiency. Documentation for this professional development activity shall be made available to a representative of the State Board of Education upon request.

4) A person who has been assigned to administer a TPI program in a district that experiences such growth in the number of students eligible for bilingual education that a TBE program is required shall become subject to the requirements of subsection (c)(1) of this Section at the beginning of the fourth school year of the TBE program’s operation. A person who has been assigned to administer a program under subsection (c)(3) of this Section in a district where the number of students eligible for bilingual education grows beyond 200 shall become subject to the requirements of subsection (c)(2) of this Section at the beginning of the fourth school year in which the eligible population exceeds 200 students. That is, each individual may continue to serve for the first three school years on the credentials that qualified him or her to administer the program previously operated.

d) In-Service Training for Staff

1) Each school district having a program shall annually plan in-service training activities for the certificated and noncertificated personnel involved in the education of students of limited English proficiency. This plan shall be included in the district’s annual application and shall be approved by the State Superintendent of Education if it meets the standards set forth in subsections (d)(2) and (d)(3) of this Section.

2) Program staff beginning their initial year of service shall be involved in training activities that will develop their knowledge of the requirements for the program established under this Part and the employing district’s relevant policies and procedures.

3) Training activities shall be provided to all bilingual program staff at least twice yearly and shall address at least one of the following areas:

A) current research in bilingual education;
B) content area and language proficiency assessment of students with limited English proficiency;

C) research-based methods and techniques for teaching students with limited English proficiency;

D) research-based methods and techniques for teaching students with limited English proficiency who also have disabilities; and

E) the culture and history of the United States and of the country, territory or geographic area that is the native land of the students or of their parents.

4) In addition to any other training required under this subsection (d), each individual who is responsible for administering the screening instrument referred to in Section 228.15(e) of this Part or the annual English language proficiency examination discussed in Section 228.25(c) of this Part shall be required to complete an on-line training sequence furnished by the State Board of Education and to pass the test embedded in that material.

c) Specific Requirements for Transitional Bilingual Education (TBE) Programs

1) Each full-time TBE program shall consist of at least the following components (Section 14C-2 of the School Code):

A) Instruction in subjects which are either required by law (see 23 Ill. Adm. Code 1) or by the student’s school district, to be given in the student’s home language and in English; core subjects such as math, science and social studies must be offered in the student’s home language;

B) Instruction in the language arts in the student’s home language;

C) Instruction in English as a second language, which must align to the “English Language Proficiency Standards for English Language Learners in PreKindergarten through Grade 12” (2007), published by the Board of Regents of the University of Wisconsin System on
behalf of the WIDA Consortium and posted at http://www.wida.us/standards/elp.aspx. No later amendments to or editions of these standards are incorporated by this Section; and

\[D\] Instruction in the history and culture of the country, territory, or geographic area which is the native land of the students or of their parents and in the history and culture of the United States.

2) Programs may also include other services, modifications, or activities such as counseling, tutorial assistance, learning settings, or special instructional resources that will assist students of limited English proficiency in meeting the Illinois Learning Standards (see 23 Ill. Adm. Code 1, Appendix D) and for preschool programs established pursuant to Section 2-3.71 of the School Code and for kindergarten levels, the Illinois Early Learning Standards (see 23 Ill. Adm. Code 235, Appendix A).

3) Students may be placed into a part-time program, or students previously placed in a full-time program may be placed in a part-time program, if an assessment of the student’s English language skills has been performed in accordance with the provisions of either Section 228.15(e) or Section 228.25(b) of this Part and the assessment results indicate that the student has sufficient proficiency in English to benefit from a part-time program.

i) Evidence of sufficient proficiency shall be achievement of the minimum score to be used for this purpose set by the State Superintendent either on the prescribed screening instrument required in Section 228.15(e) of this Part or the English language proficiency assessment required in Section 228.25(b). The State Superintendent shall inform districts of the minimum score to be used.

ii) Preschool programs shall use as evidence of sufficient proficiency either a minimum score for an established screening instrument or a minimum level of performance documented through established screening procedures.
iii) However, district staff also shall consider the student’s score and his or her proficiency in the home language, prior performance, if any, in coursework taught exclusively in English, current academic performance, and other relevant factors such as age, disability, and cultural background in order to determine whether a full-time or a part-time program is appropriate.

4) A part-time program shall consist of components of a full-time program that are selected for a particular student based upon an assessment of the student’s educational needs. Each student’s part-time program shall provide daily instruction in English and in the student’s home native language as determined by the student’s needs.

5) Parent and Community Participation – Each district or cooperative shall establish a parent advisory committee consisting of parents, legal guardians, transitional bilingual education teachers, counselors, and community leaders. This committee shall participate in the planning, operation, and evaluation of programs. The majority of committee members shall be parents or legal guardians of students enrolled in these programs. Membership on this committee shall be representative of the languages served in programs to the extent possible. (Section 14C-10 of the School Code [105 ILCS 5/14C-10])

A) The committee shall:

i) meet at least four times per year;

ii) maintain on file with the school district minutes of these meetings; and

iii) review the district’s annual program application to the State Superintendent of Education.

B) Each district or cooperative shall ensure that training is provided annually to the members of its parent advisory committee. This training shall be conducted in language that the parent members can understand and shall encompass, but need not be limited to, information related to instructional approaches and methods in
bilingual education; the provisions of State and federal law related to students’ participation and parents’ rights; and accountability measures relevant to students in bilingual programs.

d) Specific Requirements for Transitional Program of Instruction (TPI)

1) Program Structure – The level of a student’s proficiency in English, as determined by an individual student language assessment of the student’s language skills on the basis of either the prescribed screening instrument or procedures, as applicable, required in Section 228.15(e) of this Part or the English language proficiency assessment required in Section 228.25(b) of this Part in conjunction with other information available to the district regarding the student’s level of literacy in his or her home language, will determine the structure of the student’s instructional program.

2) Program Components – A transitional program of instruction must include instruction or other assistance in the student’s home language to the extent necessary, as determined by the district on the basis of the prescribed screening instrument student assessment required in Section 228.15(e) of this Part or the English language proficiency assessment required in Section 228.25(b) of this Part, to enable the student to keep pace with his/her age or grade peers in achievement in the core academic content areas. A transitional program of instruction may include, but is not limited to, the following components:

A) instruction in ESL, which must align to the “English Language Proficiency Standards for English Language Learners in PreKindergarten through Grade 12” (2007), published by the Board of Regents of the University of Wisconsin System on behalf of the WIDA Consortium and posted at http://www.wida.us/standards/elp.aspx. No later amendments to or editions of these standards are incorporated by this Section;

B) language arts in the students’ home language; and

C) instruction in the history and culture of the country, territory, or geographic area that is the native land of the students or of their parents and in the history and culture of the United States.
Section 228.35 Personnel Qualifications; Professional Development

a) Each individual assigned to provide instruction in a student’s home language shall meet the requirements for bilingual education teachers set forth in 23 Ill. Adm. Code 25 (Certification) and 23 Ill. Adm. Code 1 (Public Schools Evaluation, Recognition and Supervision), as applicable.

b) Each individual assigned to provide instruction in ESL shall meet the requirements for ESL or English as a New Language teachers set forth in 23 Ill. Adm. Code 25 and 23 Ill. Adm. Code 1, as applicable.

c) Preschool Programs

1) Each individual assigned to provide instruction to students in a preschool program shall meet the requirements of 23 Ill. Adm. 235.20(c)(8)(A) (Early Childhood Block Grant).

2) By July 1, 2014, each individual assigned to provide instruction to students in a preschool program also shall meet the applicable requirements of subsection (a) or (b) of this Section, depending on the assignment.

3) Noncertificated staff employed to assist in instruction in a preschool program shall meet the requirements of 23 Ill. Adm. 235.20(c)(8)(B).

d) Administrators

Beginning July 1, 2008, each individual newly assigned to administer a program under this Part shall meet the applicable requirements of this subsection (d).

Administrators first assigned on or before June 30, 2008 shall be subject to the applicable requirements of this subsection (d) as of July 1, 2010.

1) Except as provided in subsections (d)(3) and (4) of this Section, any person designated to administer a TBE program must hold a valid administrative certificate or a supervisory endorsement issued on an initial
or standard teaching certificate by the State Board of Education in accordance with applicable provisions of 23 Ill. Adm. Code 25 (Certification) and 23 Ill. Adm. Code 1 (Public Schools Evaluation, Recognition and Supervision) and must hold the bilingual approval or endorsement or the ENL endorsement with a language designation.

2) Except as provided in subsections (d)(3) and (4) of this Section, any person designated to administer a TPI program must hold a valid administrative certificate or a supervisory endorsement issued on an initial or standard teaching certificate by the State Board of Education in accordance with applicable provisions of 23 Ill. Adm. Code 25 and 1 and must hold the bilingual or ESL approval or endorsement or the ENL endorsement.

3) A person designated to administer a TBE or TPI program in a district with fewer than 200 TBE/TPI students shall be exempt from all but the requirement for an administrative certificate or a supervisory endorsement issued on an initial or standard teaching certificate, provided that he or she annually completes a minimum of two hours of professional development specifically designed to address the needs of students with limited English proficiency. Beginning in the 2012-13 school year, a minimum of eight hours of professional development shall be required. An assurance that this requirement has been met shall be provided annually in a school district’s application submitted pursuant to Section 228.50 of this Part. Documentation for this professional development activity shall be made available to a representative of the State Board of Education upon request.

4) A person who has been assigned to administer a TPI program in a district that experiences such growth in the number of students eligible for bilingual education that a TBE program is required shall become subject to the requirements of subsection (d)(1) of this Section at the beginning of the fourth school year of the TBE program’s operation. A person who has been assigned to administer a program under subsection (d)(3) of this Section in a district where the number of students eligible for bilingual education reaches 200 shall become subject to the requirements of subsection (d)(2) of this Section at the beginning of the fourth school year in which the eligible population equals or exceeds 200 or more students. That is, each individual may continue to serve for the first three school
years on the credentials that qualified him or her to administer the program previously operated.

e) Professional Development for Staff

1) Each school district having a program shall annually plan professional development activities for the certificated and noncertificated personnel involved in the education of students of limited English proficiency. This plan shall be included in the district’s annual application and shall be approved by the State Superintendent of Education if it meets the standards set forth in subsections (e)(2) and (e)(3) of this Section.

2) Program staff beginning their initial year of service shall be involved in training activities that will develop their knowledge of the requirements for the program established under this Part and the employing district’s relevant policies and procedures.

3) Training activities shall be provided to all bilingual program staff at least twice yearly and shall address at least one of the following areas:

   A) current research in bilingual education;

   B) content-area and language proficiency assessment of students with limited English proficiency;

   C) research-based methods and techniques for teaching students with limited English proficiency;

   D) research-based methods and techniques for teaching students with limited English proficiency who also have disabilities; and

   E) the culture and history of the United States and of the country, territory or geographic area that is the native land of the students or of their parents.

4) In addition to any other training required under this subsection (e), each individual who is responsible for administering the prescribed screening instrument referred to in Section 228.15(e) of this Part or the annual
English language proficiency assessment discussed in Section 228.25(b) of this Part shall be required to complete on-line training designated by the State Superintendent of Education and to pass the test embedded in that material.

5) Beginning in the 2012-13 school year, each district that operates either a TBE or a TPI program for students of Spanish language background in kindergarten and any of grades 1 through 12 shall provide annually at least one training session related to the implementation of the Spanish language arts standards required under Section 228.30(b)(4) of this Part for staff members of that program who are providing instruction in the Spanish language arts.

(Source: Added at 34 Ill. Reg. _____, effective ____________)

Section 228.40 Students’ Participation; Records

a) Notice of Enrollment and Withdrawal

1) *Notice of Enrollment –* No later than 30 days after the beginning of the school year or 14 days after the enrollment of any student in a transitional bilingual education program in the middle of a school year, the school district shall notify by mail the parents or legal guardians of the student that their child has been enrolled in a transitional bilingual education program or a transitional program of instruction. The notice shall be in English and in the home language of the student and shall convey, in simple, nontechnical language, all of the information called for in Section 14C-4 of the School Code [105 ILCS 5/14C-4].

2) *Withdrawal by Parents –* Any parent or legal guardian whose child has been enrolled in a program shall have the absolute right to withdraw the child from the program immediately by submitting a written notice of his or her desire to withdraw the child to the school authorities of the school in which the child is enrolled or to the school district in which the child resides. (Section 14C-4 of the School Code)
b) Unless terminated as set forth in subsection (a)(2) of this Section, the duration of a student’s participation in a program under this Part shall be as set forth in Section 14C-3 of the School Code.

1) If a student participates in a TBE or TPI in preschool or kindergarten, then that participation does not count towards the three-year total specified in Section 14C-3 of the School Code.

2) If a student exits a program after three years and is not proficient in English, then the school district shall meet the requirements of Section 228.27 of this Part.

c) Maintenance of Records and Reporting Procedures

1) Report Cards - The school shall send progress reports to parents or legal guardians of students enrolled in programs in the same manner and with the same frequency as progress reports are sent to parents or legal guardians of other students enrolled in the school district. These

   A) Progress reports shall indicate the student's progress in the program and in the general program of instruction, and, if applicable, in a specific program.

   B) Progress reports shall indicate when the student has successfully completed requirements for transition from the program into the general program of instruction if that information has not been reported separately in writing to the parents or legal guardian.

   C) Progress reports for all students enrolled in a program under this Part shall be written in English and in the student's home language unless a student's parents or legal guardian agrees in writing to waive this requirement. The parents’ waiver shall be kept on file in accordance with subsection (c)(3) of this Section.

2) Annual Student Reports - Each district must submit electronically the information requested by the State Superintendent using the Student Information System (23 Ill. Adm. Code 1.75) no later than June 30 of each year. Each district also must complete the Transitional Bilingual Education Annual Student Report and the Program Delivery Report.
provided by the State Superintendent of Education, in which information on each program and each student participating in the program is compiled.

3) Records - School districts shall maintain records of each student enrolled in programs in the manner prescribed in 23 Ill. Adm. Code 375 (Student Records). These records shall include program entry/exit information, annual English language proficiency assessment test scores and results from the prescribed screening instrument for students in kindergarten and any of grades 1 through 12 or the results from the prescribed screening procedures for students in preschool programs; and other student information (e.g., language, grade level, and attendance); the rationale for a student’s placement into a part-time program, where applicable, including documentation of the factors indicating that a part-time program would be appropriate; and documentation of conferences and written communication with parents or legal guardians. Parents and legal guardians of students enrolled in programs shall have access to their students’ records, as specified in 23 Ill. Adm. Code 375.

(Source: Amended at 34 Ill. Reg. _____, effective ____________)

Section 228.50 Program Plan Approval and Reimbursement Procedures

a) Reimbursement for programs provided by school districts pursuant to the provisions of Article 14C of the School Code and this Part is contingent upon the submission and approval of a program plan and request for reimbursement in accordance with the requirements of Section 14C-12 of the School Code and this Section.

b) Program Plan Submission and Approval

1) Applications for program approval shall be submitted, on forms provided by the State Superintendent of Education, at least 60 calendar days prior to the start of the proposed initial or continuing program.

2) The State Superintendent of Education will waive the requirement in subsection (b)(1) of this Section only when an application is accompanied by a statement of facts showing that the waiver will enable the district to
begin serving a student or students sooner than would otherwise be the case.

3) School districts shall be granted at least 45 calendar days to complete and submit applications to the State Superintendent of Education. A district's failure to submit a completed application by the date specified on the form will delay its receipt of reimbursement pursuant to subsection (c) of this Section.

4) Applications for a Transitional Bilingual Education Program and/or a Transitional Program of Instruction must contain at least the following information:

A) The number of students to be served by grade or grade equivalent and language group in a full-time or part-time program.

B) A summary description of the number and types of personnel who will provide services in the program.

C) A description of the full-time and/or part-time program to be provided to the students identified pursuant to subsection (b)(4)(A) of this Section in relation to the applicable program standards set forth in Section 228.30 of this Part.

D) Additional requirements for programs offering instruction in Spanish language arts in kindergarten and any of grades 1 through 12:

   i) For the 2011-12 school year only, a description of the steps the district will take to align its curriculum in the Spanish language arts with the standards required under Section 228.30(b)(4) this Part; and

   ii) For 2012-13 and each subsequent school year, a description of the methods by which the district will measure and monitor its students’ progress with respect to the standards required under Section 228.30(b)(4) of this Part.
E) A budget summary containing a projection of the program expenditures (e.g., instruction, support services, administration and transportation) and offsetting revenues for the upcoming fiscal year, and a detailed budget breakdown, including allowable program expenditures for which reimbursement is sought, other program expenditures, and total program costs.

F) In the case of a TBE program, an assurance that the signature of the chairperson of the district's Bilingual Parent Advisory Committee established pursuant to Section 14C-10 of the School Code and Section 228.30(c)(5) of this Part, which shall be evidence that the Committee has had an opportunity to review the application.

G) Inclusion of 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 application.

5) Applications that, upon review by the State Superintendent of Education staff, are found to contain the information required pursuant to this Section shall be recommended for approval by the State Superintendent of Education. If the application is found to be incomplete, State Board staff will send a written notice to applicants requesting that they supply the needed information. In order to permit accurate allocation of funds for the program among eligible recipients, the State Superintendent may establish a deadline by which applicants must supply the requested information.

6) The State Superintendent of Education will approve applications that demonstrate compliance with Article 14C of the School Code and this Part, except that the State Superintendent shall invoke subsection (b)(5) of this Section with respect to any requested information that is missing from any application submitted for approval.

c) Account of Expenditures and Reimbursement Procedures

1) An account of each district's expenditures pursuant to Article 14C of the School Code and this Part shall be maintained as required in Section 14C-
12 of the School Code. Accounting procedures shall be in accordance with applicable requirements of 23 Ill. Adm. Code 100 (Requirements for Accounting, Budgeting, Financial Reporting, and Auditing) and 110 (Program Accounting Manual).

2) The final annual report of district expenditures, which shall include the information specified in Section 14C-12 of the School Code, shall be submitted on forms provided by the State Superintendent of Education no later than July 31 of each year.

3) School districts shall submit claims for reimbursement of programs approved in accordance with this Part on forms provided by the State Superintendent of Education and in accordance with Section 14C-12 of the School Code. No State reimbursement shall be available with respect to any student served for fewer than five class periods per week.

4) In the event that funds appropriated by the General Assembly are insufficient to cover the districts' excess costs, the funds will be distributed on a pro rata basis and in accordance with the timelines specified in Section 14C-12 of the School Code.

5) A request to amend a district's approved budget shall be submitted on forms provided by the State Superintendent of Education whenever a district determines that there is a need to increase or decrease an approved line item expenditure by more than $1,000 or 20 percent, whichever is larger. A budget amendment must also be submitted for approval when a grantee proposes to use funds for allowable expenditures not identified in the approved budget.

6) Budget amendment requests will be approved if the rationale provided for each amendment includes facts demonstrating that:

   A) there is a need (e.g., a change in the number of students served or personnel needed); and

   B) the altered expenditures and their related program services will be in compliance with the requirements of Article 14C of the School Code and this Part.
Section 228.60  Evaluation Enforcement

a) Each school district's compliance with the requirements of Article 14C of the School Code and this Part shall be evaluated at least every three years by State Board of Education staff, who shall use the criteria set forth in Article 14C of the School Code and this Part to determine compliance.

b) Each school district’s progress with regard to the academic achievement of students having limited English proficiency shall be evaluated annually in accordance with the provisions of 23 Ill. Adm. Code 1.40 (Adequate Yearly Progress). The recognition status of districts found to be in noncompliance with the requirements of Article 14C of the School Code and this Part will be evaluated in accordance with the provisions of Subpart A of 23 Ill. Adm. Code 1.

(Source: Amended at 34 Ill. Reg. _____, effective ______________)
PART 235
EARLY CHILDHOOD BLOCK GRANT

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SUBPART A: PRESCHOOL EDUCATION AND PREVENTION INITIATIVE PROGRAMS

Section 235.20 Application Procedure and Content for New or Expanding Programs

Each applicant that is proposing a program that has not received funding in the year previous to the current application or is seeking additional funds to expand its currently funded program shall submit to the State Board of Education a proposal that includes the components specified in this Section. For purposes of this Section, an “expanded” program includes one in which the applicant is proposing to serve additional children and their families or to offer initiatives not provided under its currently funded program.

a) Grants for new or expanded programs shall be offered in years in which the level of available funding is such that one or more new or expanded programs can be supported, along with those currently funded programs that seek continuation funding in accordance to Section 235.60 of this Part.

b) When sufficient funding is available, the State Superintendent of Education shall issue one or more Requests 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 45 calendar days in which to submit proposals.

c) All proposals submitted in response to an RFP shall include the following components:
1) A cover page completed on a form supplied by the State Board of Education and signed by the school district superintendent or official authorized to submit the proposal or, in the case of a joint application, by the superintendent from each of the school districts and each authorized official of other eligible entities participating in the joint proposal.

2) For applicants other than public school districts, a description that includes the following:

   A) the applicant’s mission statement, organizational structure, and goals or policies regarding early childhood programs;

   B) the applicant’s existing competencies to provide early childhood education programs, to include a list of any early childhood accreditations that have been achieved; and

   C) in the case of a joint application, the goals and objectives of the collaboration and a brief description of each partner’s experience in providing services similar to those to be provided under the Early Childhood Block Grant program.

3) A description of the need for the program, which shall include:

   A) current demographic or descriptive information regarding the community in which the families and children reside (including information on the prevalence of homelessness); and

   B) the process that was used to determine the need for the program in the community in relation to other similar services that may be operating in the same geographic area.

4) A description of the population to be served, as defined in Section 235.10(a) of this Part, for each program to be funded under the Early Childhood Block Grant. This description shall include:

   A) how the eligible population will be recruited;

   B) the geographic area to be served; and
C) the estimated number of children and/or families to be enrolled.

5) A description of the procedures to be used to screen children and their families to determine their need for services. Results of the screening shall be made available to the program staff and parents of the children screened. All screening procedures shall include:

A) criteria to determine at what point performance on the screening instrument indicates that children are at risk of academic failure as well as to assess other environmental, economic and demographic information that indicates a likelihood that the children would be at risk;

B) screening instruments/activities related to and able to measure the child’s development in at least the following areas (as appropriate for the age of the child): vocabulary, visual-motor integration, language and speech development, English proficiency, fine and gross motor skills, social skills and cognitive development;

C) written parental permission for the screening;

D) parent interview (to be conducted in the parents’ home language, if necessary), including at least the following:

i) for preschool education programs, a summary of the child’s health history and social development; or

ii) for prevention initiative programs, information about the parents, such as age, educational achievement and employment history;

E) vision and hearing screening, in accordance with 77 Ill. Adm. Code 685 (Vision Screening) and 675 (Hearing Screening); and

F) where practicable, provision for the inclusion of program teaching staff in the screening process.
6) A description of the parent education and training component that will be provided, to meet at least all of the requirements of Section 2-3.71a of the School Code.

7) A description of how the program will coordinate with other programs, as specified in the RFP, that are in operation in the same area and that are concerned with the education, welfare, health and safety needs of young children.

8) A description of the full-time and part-time professional and nonprofessional staff to be paid by the program, indicating that program administrators, early childhood teachers, counselors, psychologists, psychiatrists and social workers are appropriately qualified.

A) Teachers of children ages 3 to 5 years must hold an initial, initial alternative, standard, master, provisional, provisional alternative, resident teacher, or visiting international teacher early childhood certificate. (See Section 2-3.71(a)(3) of the School Code and 23 Ill. Adm. Code 1.Appendix A.)

B) By July 1, 2014, noncertificated staff employed to assist in instruction provided to children ages 3 to 5 years shall meet the requirements set forth in 23 Ill. Adm. Code 25.510(c).

C) Teachers of children ages 3 to 5 years who are assigned to a transitional bilingual program or a transitional program of instruction that is administered by a school district, either in an attendance center or a non-school-based facility, shall meet the requirements set forth in 23 Ill. Adm. Code 228.35 (Transitional Bilingual Education), as applicable.

9) A description of staff development assessment procedures and ongoing professional development activities to be conducted.

10) A description of the required program components, as set forth in either Section 235.30 or 235.40 of this Part.

11) Other information, as specified in the RFP, such as daily schedules (including the number of hours per day and days per week the program
will operate), classroom locations, facility information (e.g., owner’s name, terms of lease arrangement, size of classrooms and other areas to be used by the program), if applicable.

12) The plan for ensuring that the program provides either a snack, in the case of a half-day program, or a meal, in the case of a full-day program, for participating children.

13) Budget information, provided on forms supplied by the State Board of Education. The budget shall specify that no more than 5 percent of the total grant award shall be used for administrative and general expenses not directly attributed to program activities, except that a higher limit not to exceed 10 percent may be negotiated with an applicant that has provided evidence that the excess administrative expenses are beyond its control and that it has exhausted all available and reasonable remedies to comply with the limitation.

14) A description of how the applicant will ensure that no fees will be charged of parents or guardians and their children who are enrolled and participate in Early Childhood Block Grant programs.

15) A plan for evaluating the proposed programs and activities to be included in the Early Childhood Block Grant, which shall correspond to the applicable specifications set forth in the RFP.

16) Such certifications and assurances as the State Board of Education may require.

(Source: Amended at 34 Ill. Reg. ____ , effective _____________)

Section 235.30 Additional Program Components for Preschool Education Proposals

In addition to the requirements set forth in Section 235.20, applications for funding for preschool education programs and activities, as defined in Section 235.10(a)(1) of this Part, must provide:

a) a description of how the comprehensive services to be provided are aligned with the Illinois Early Learning Standards as set forth in Appendix A of this Part;
b) a description of how the proposed educational program is developmentally appropriate for each child, which shall:

1) be accepted based upon evidence in the proposal that the results of the individualized assessment profile for each child will be the basis for determining that child’s educational program;

2) address the domains of development specified in Section 235.20(c)(5)(B) and how a language and literacy development program shall be implemented for each child based on that child’s individual assessment; and

3) address how student progress will be assessed and documented to ensure that the educational program meets the needs of the student and provides a system whereby that student’s parents are routinely advised of their child’s progress;

c) the maximum number of children to be screened for program eligibility and, for those children that are screened, the maximum to be served by the educational program. The maximum number must be served in each classroom if, following completion of screening, the program has a waiting list of eligible children;

d) the child/staff ratio for each classroom, which shall not exceed a ratio of 10 children to one adult, with no more than 20 children being served in each classroom; and

e) a description of how the program will ensure that those children who are age-eligible for kindergarten are enrolled in school upon leaving the preschool education program; and

f) for school district applicants, a description of the steps to be taken to ensure that the provisions of Article 14C of the School Code [105 ILCS 5/Art. 14C] and 23 Ill. Adm. Code 228 (Transitional Bilingual Education) are met.

(Source: Amended at 34 Ill. Reg. _____, effective _____________)

SUBPART B: PRESCHOOL FOR ALL CHILDREN PROGRAM

Section 235.120 Proposal Review and Approval for New or Expanding Programs
In order to meet the funding priorities set forth in Section 2-3.71(a)(4.5) of the School Code, each proposal shall be reviewed using both quantitative and qualitative criteria.

a) Proposals shall first be screened to identify those proposals that meet the criteria for each funding priority (see Section 235.110(a) of this Part). Proposals shall be separated into the following three categories:

1) proposals serving primarily at-risk children,

2) proposals serving primarily children whose families meet income guidelines, and

3) all other proposals.

b) Within each of the three categories set forth in subsection (a) of this Section, the proposals shall be reviewed and scored using the qualitative criteria set forth in Section 235.50(a) of this Part to determine which proposals provide evidence of a “qualified program”. “Qualified programs” shall be those scoring at least 60 out of 100 total points.

1) All qualified programs within the category set forth in subsection (a)(1) of this Section shall be funded before funding any qualified programs in the categories set forth in subsection (a)(2) or (a)(3) of this Section.

2) All qualified programs within the category set forth in subsection (a)(2) of this Section shall be funded before funding any qualified programs in the category set forth in subsection (a)(3) of this Section.

3) Within each category, priority for funding will be given to substantially similar proposals that:

   A) serve children from a community with limited preschool programs or few resources promoting preschool education,

   B) include a signed partnership agreement with the local Head Start program.
c) The selection of proposals for funding may be based in part on the need to make programs available on a statewide basis and/or to provide resources to school districts and communities with varying demographic characteristics.

d) 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 Preschool for All Children program; and

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

(Source: Amended at 34 Ill. Reg. _____, effective ______________)