

ILLINOIS REGISTER

ILLINOIS STATE BOARD OF EDUCATION

NOTICE OF PROPOSED AMENDMENTS

TITLE 23: EDUCATION AND CULTURAL RESOURCES

SUBTITLE A: EDUCATION

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SUBCHAPTER f: INSTRUCTION FOR SPECIFIC STUDENT POPULATIONS

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

SOURCE: Adopted August 12, 1976; rules repealed and new emergency rules adopted at 2 Ill. Reg. 37, p. 29, effective September 1, 1978, for a maximum of 150 days; rules repealed and new rules adopted at 3 Ill. Reg. 5, p. 932, effective February 1, 1979; emergency amendment at 4 Ill. Reg. 38, p. 328, effective September 15, 1980, for a maximum of 150 days; amended at 5 Ill. Reg. 8021, effective July 22, 1981; amended at 6 Ill. Reg. 558, effective December 23, 1981; emergency amendment at 7 Ill. Reg. 6511, effective May 6, 1983, for a maximum of 150 days; emergency amendment at 7 Ill. Reg. 8949, effective July 15, 1983, for a maximum of 150 days; codified at 8 Ill. Reg. 6669; amended at 8 Ill. Reg. 7617, effective May 17, 1984; emergency amendment at 10 Ill. Reg. 3292, effective January 27, 1986, for a maximum of 150 days; emergency expired June 24, 1986; amended at 10 Ill. Reg. 18743, effective October 22, 1986; amended at 10 Ill. Reg. 19411, effective October 31, 1986; amended at 13 Ill. Reg. 15388, effective September 14, 1989; emergency amendment at 14 Ill. Reg. 11364, effective June 26, 1990, for a maximum of 150 days; emergency expired November 23, 1990; amended at 15 Ill. Reg. 40, effective December 24, 1990; amended at 16 Ill. Reg. 12868, effective August 10, 1992; emergency amendment at 17 Ill. Reg. 13622, effective August 3, 1993, for a maximum of 150 days; emergency expired December 31, 1993; amended at 18 Ill. Reg. 1930, effective January 24, 1994; amended at 18 Ill. Reg. 4685, effective March 11, 1994; amended at 18 Ill. Reg. 16318, effective October 25, 1994; amended at 19 Ill. Reg. 7207, effective May 10, 1995; amended at 20 Ill. Reg. 10908, effective August 5, 1996; amended at 21 Ill. Reg. 7655, effective July 1, 1997; Part repealed, new Part adopted at 24 Ill. Reg. 13884, effective August 25, 2000; amended at 27 Ill. Reg. 8126, effective April 28, 2003; amended at 31 Ill. Reg. 9915, effective June 28, 2007; amended at 32 Ill. Reg. 4828, effective March 21, 2008; amended at 34 Ill. Reg. 17433, effective October 28, 2010; amended at 35 Ill. Reg. 8836, effective May 26, 2011; preemptory amendment, pursuant to PA 97-461, at 35 Ill. Reg. 14836, effective August 22, 2011; amended at 36 Ill. Reg. 12648, effective July 18, 2012; amended at 36 Ill. Reg. 12870, effective July 24, 2012; amended at 37 Ill. Reg. 16788, effective October 2, 2013; amended at 40 Ill. Reg. 2220, effective January 13, 2016; emergency amendment at 44 Ill. Reg. 5917, effective March 25, 2020, for a maximum of 150 days; emergency amendment to emergency rule at 44 Ill. Reg. 6675, effective April 9, 2020, for the remainder of the 150 days; amended at 44 Ill. Reg. _____, effective _____.

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Section 226.75 Definitions

~~Assistive Technology Device: See 34 CFR 300.5.~~

~~“Behavioral intervention” means an Intervention: An intervention based on the methods and empirical findings of behavioral science and that is designed to positively influence a child's actions or behaviors positively.~~

~~“Business day” means Monday through Friday, except for federal and State holidays.~~

~~“Day” means a calendar day.~~

~~Case Study Evaluation: See "Evaluation".~~

~~Day; Business Day; School Day: See 34 CFR 300.11.~~

~~Developmental Delay: See 34 CFR 300.8 and 300.111(b). Delay in physical development, cognitive development, communication development, social or emotional development, or adaptive development (may include children from three through nine years of age).~~

~~“Disability” means the 13 disabilities identified in the federal Individuals with Disabilities Education Act Disability: IDEA identifies 13 disabilities as the basis for students' eligibility for special education and related services. These disabilities (autism, deaf-blindness, deafness, emotional disability, hearing impairment, intellectual disability, multiple disabilities, orthopedic impairment, other health impairment, specific learning disability, speech or language impairment, traumatic brain injury, and visual impairment) shall be defined as set forth in 34 CFR 300.8(c). In addition, for purposes of this Part, "autism" shall include, but not be limited to, any Autism Spectrum Disorder that adversely affects a child's educational performance.~~

~~“Domain” means an Domain: An aspect of a child's functioning or performance that must be considered in the course of designing an evaluation. The domains are health, vision, hearing, social and emotional status, general intelligence, academic performance, communication status, and motor abilities.~~

~~“Equipment” has the meaning given to that term under Equipment (a programmatic definition, not intended to coincide with the definition of~~

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~~"equipment" given in the Requirements for Accounting, Budgeting, Financial Reporting, and Auditing at 23 Ill. Adm. Code 100.20): See 34 CFR 300.14.~~

~~"Evaluation" has the meaning given to that term under Evaluation: See 34 CFR 300.15.~~

~~"Extended school year services" has the meaning given to that term under Extended School Year Services: See 34 CFR 300.106(b).~~

~~"Functional behavioral assessment" means an Behavioral Assessment: An assessment process for gathering information regarding the target behavior, its antecedents and consequences, controlling variables, the student's strengths, and the communicative and functional intent of the behavior, for use in developing behavioral interventions.~~

~~"General curriculum" means the Curriculum: The curriculum adopted and/or used by a local school district or by the schools within a district for nondisabled students; the content of the program, as opposed to the setting in which it is offered.~~

~~"Individualized education program team" or "IEP team" has the meaning given to that term under IEP Team: See 34 CFR 300.23.~~

~~"Independent educational evaluation" has the meaning given to that term under Educational Evaluation: See 34 CFR 300.502(a)(3)(i).~~

~~"Individualized education program Education Program or IEP" has the meaning given to that term under: See 34 CFR 300.22. An IEP shall be considered "linguistically and culturally appropriate" if it addresses the language and communication needs of a student as a foundation for learning, as well as any cultural factors that may affect the student's education.~~

Individualized Family Service Plan or IFSP: See 34 CFR 300.24.

~~"Interpreter" means a person fluent in English and in the necessary language of the parent and who can accurately speak, read, and readily interpret the necessary second language, or a person who can accurately sign and read sign language.~~

~~"Interpretation services" means the verbal interpretation of English into another language and of the other language into English. "Interpretation services" may also include sight translations of written text into spoken word.~~

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Least Restrictive Environment (LRE): See 34 CFR 300.114.

“Limited English proficient” has the meaning given to that term under ~~Proficient~~: See 34 CFR 300.27.

“Native language” has the meaning given to that term under ~~Language~~: See 34 CFR 300.29.

“Parent” has the meaning given to that term under: See 34 CFR 300.30.

“Preferred language” means a parent’s or guardian’s native language or any other language with which the parent or guardian requests interpretation services. “Preferred language” does not include artificial or constructed languages, including, but not limited to, Klingon, Dothraki, Elvish, or Esperanto.

“Personally identifiable” has the meaning given to that term ~~Identifiable (with reference to information)~~: See 34 CFR 300.32.

“Qualified bilingual specialist” means an ~~Bilingual Specialist~~: An individual who holds the qualifications described in Section 226.800(f).

“Qualified interpreter” means a school staff member or other personnel who is:

- i) bilingual and demonstrably qualified and competent to interpret;
- ii) trained in providing the interpretations requested and sufficiently knowledgeable in both languages and of any specialized terminology needed; and
- iii) trained in ethics of interpretation.

“Qualified personnel” means staff ~~Personnel~~: Staff members or other individuals who hold the certificate, educator or professional license, registration, or credential that is required for the performance of a particular task.

“Qualified specialist” means an ~~Specialist~~: An individual who holds the applicable qualifications described in Subpart I.

“Related services” has the meaning given to that term under ~~Services~~: See 34 CFR 300.34.

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“School Code” or “Code” means 105 ILCS 5.

“School day” means any day, including a partial day, that children are in attendance at school for instructional purposes.

“School district” means a ~~District~~: A public school district established under Article 10 or Article 34 of the School Code [~~105 ILCS 5/Art. 10 or 34~~] or a charter school established under Article 27A of the School Code [~~105 ILCS 5/Art. 27A~~].

“Special education” has the meaning given to that term under ~~Education~~: See 34 CFR 300.39.

Student Record: See Section 2 of the Illinois School Student Records Act [105 ILCS 10/2] and 23 Ill. Adm. Code 375.10 (Student Records).

“Supplementary aids and services” has the meaning given to that term under ~~Aids and Services~~: See 34 CFR 300.42.

“Transition services” has the meaning given to that term under ~~Services~~: See 34 CFR 300.43.

(Source: Amended at 44 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 a qualified ~~an~~ interpreter, as described in Section 226.800(l), for parents 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 44 Ill. Reg. _____, effective _____)

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SUBPART I: PERSONNEL

Section 226.800 Personnel Required to be Qualified

- a) General
 - 1) Each school district, or the special education cooperative of which it is a member, shall employ sufficient professional personnel and personnel not holding Illinois educator licensure to deliver and supervise the full continuum of special education and related services needed by the eligible students who reside in the district or districts served by the cooperative. The number and types of personnel employed shall be based on students' need rather than administrative convenience.
 - 2) Each school district or special education cooperative 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 with respect to only those individuals who are qualified, pursuant to this Subpart I, to *deliver services to students with IEPs* [105 ILCS 5/14-1.10 and 14-13.01] and whose positions are listed either in Section 226.850 or 226.860 of this Part, or pursuant to 23 Ill. Adm. Code 25.48 (Short-Term Emergency Approval in Special Education) when applicable.
 - 4) Each school district or special education cooperative 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:
 - 1) hold a valid professional educator license endorsed for special preschool-age 21 and meet the qualifications required for the teaching area pursuant to 23 Ill. Adm. Code 25.43; or

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- 2) hold a valid professional educator license endorsed in another teaching area and approval issued by the State Board of Education specific to the area of responsibility (see Section 226.810); or
 - 3) be employed pursuant to an authorization for assignment issued to the employing entity under Section 226.820; or
 - 4) hold short-term emergency approval issued pursuant to 23 Ill. Adm. Code 25.48.
- c) An individual assigned as a career and technical 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 a valid professional educator license with either a special preschool-age 21 endorsement or a secondary endorsement; 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 (H):
 - A) Survey of the exceptional child;
 - B) Diagnosis of, and characteristics of the student with, all the disabilities encompassed by the Learning Behavior Specialist I (LBS I) credential;
 - C) Adaptations or modifications of the general curriculum to meet the needs of students with the disabilities encompassed by the LBS I credential;
 - D) Career and technical programming for students with disabilities;
 - E) Methods appropriate for teaching children with all the disabilities encompassed by the LBS I credential;
 - F) Guidance and counseling;

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- G) Educational and psychological diagnosis;
 - H) Career 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 a valid professional educator license with either a special preschool-age 21 endorsement for the disability area of assignment issued pursuant to 23 Ill. Adm. Code 25.43 or a secondary endorsement with special education approval in the applicable disability area issued pursuant to Section 226.810;
 - 2) has completed a course in career and technical 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 career and technical education.
- e) An individual assigned as a business manager's assistant shall hold a valid professional educator license endorsed for chief school business official pursuant to 23 Ill. Adm. Code 25.345.
- f) **Qualified Bilingual Specialists**
Professional staff otherwise qualified pursuant to this Section shall be considered "qualified bilingual specialists" if they submit the required application and meet the applicable requirements set forth in this subsection (f).
- 1) A holder of a valid professional educator license with a special preschool-age 21 endorsement in the area of responsibility issued pursuant to 23 Ill. Adm. Code 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

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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 a valid professional educator license with an early childhood, elementary, secondary, or special preschool-age 21 endorsement who also holds special education approval in the area of responsibility (see Section 226.810) 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).
 - 3) A holder of a valid professional educator license with an early childhood, elementary, secondary, or special kindergarten-grade 12 or preschool-age 21 endorsement who also holds an endorsement 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 valid educator license with stipulations endorsed for transitional bilingual educator 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;

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- 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 valid professional educator license with a school support personnel endorsement for school counselor, school social worker, school psychologist, or speech and language pathologist 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 special education cooperative 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.
- 1) Each director or assistant director of special education shall hold a valid professional educator license endorsed for director of special education issued pursuant to 23 Ill. Adm. Code 25.365 and a master's degree, including 30 semester hours of coursework distributed among all the areas specified in 23 Ill. Adm. Code 25.365(b). Beginning July 1, 2005, directors and assistant directors of special education shall be subject to the requirements of 23 Ill. Adm. Code 29.140 (Director of Special Education).
 - 2) Each school district or the special education cooperative 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 by his or her full name and Illinois Educator Identification Number. 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 school district or special education cooperative.

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- h) Supervisors
 - 1) Each school district or special education cooperative shall employ sufficient supervisory personnel to provide consultation to and coordination of special education services.
 - 2) Each individual performing a supervisory function shall hold one of the following:
 - A) a valid professional educator license with a special preschool-age 21 endorsement in the area to be supervised, and a supervisory endorsement issued pursuant to 23 Ill. Adm. Code 25.497, with two years' teaching experience in that area; or
 - B) a valid professional educator license with a school support personnel endorsement, and a supervisory endorsement issued, with two years' experience in the area to be supervised; or
 - C) a valid professional educator license with an administrative endorsement issued under 23 Ill. Adm. Code 25.Subpart E and either a special preschool-age 21 endorsement 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 a valid professional educator license with a general administrative, principal or director of special education endorsement issued pursuant to 23 Ill. Adm. Code 25.335, 25.337, or 25.365 and either:

 - 1) an endorsement or approval that is specific to at least one of the disabilities prevalent in the students served by the school, if the school serves students who are deaf or hard of hearing, blind or visually impaired, or speech- and language-impaired; or
 - 2) an endorsement as Learning Behavior Specialist I that either is unlimited or specific to one of the disabilities prevalent in the students served by the school (see 23 Ill. Adm. Code 25.46); or
 - 3) approval as an LBS I issued by the State Board of Education pursuant to Section 226.810 and 23 Ill. Adm. Code 25.47 (Special Provisions for the Learning Behavior Specialist I Approval) that either is unlimited or

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specific to one of the disabilities prevalent in the students served by the school.

- j) Other Professional Personnel
Each individual employed in a professional capacity not specified in subsections (a) through (i) shall, as appropriate to his or her assignment, hold:
- 1) a valid professional educator license endorsed for school support personnel appropriate to the area of responsibility (see 23 Ill. Adm. Code 25, Subpart D); or
 - 2) a valid professional 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). Evidence of the individual's credential shall be kept on file by the school district or special education cooperative and presented to the State Board of Education upon request.
- k) Personnel Not Holding Educator Licensure
- 1) Each professional individual not holding educator licensure issued under Article 21B of the School Code [105 ILCS 5/Art. 21B] 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 or aide, whether providing instructional or noninstructional services, 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.
 - A) Nothing in this subsection (k) authorizes individual student aides or others who do not hold an appropriate professional license to perform any nursing activity, as nursing activity may be defined in

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the Nurse Practice Act [225 ILCS 65] and rules governing that Act (68 Ill. Adm. Code 1300), including any procedures and duties requiring a medical order (e.g., tube feedings, catheterizations, administration of medications, tracheal suctioning, tube insertions, blood draws, dressing changes), except as may be otherwise authorized under State law.

B) The provisions of this subsection (k) do not apply to paraprofessional educators licensed under Section 21B-20 of the School Code [105 ILCS 5/21B-20] nor to educational interpreters approved pursuant to 23 Ill. Adm. Code 25.550 (Approval of Educational Interpreters).

3) Each school district shall provide training experiences appropriate to the nature of their responsibilities to the individuals discussed in subsections (k)(1) and (2). Training shall be in lieu of the requirements for personnel not holding educator licensure set forth in 23 Ill. Adm. Code 1, Subpart F.

l) Qualified Interpreters

1) A qualified interpreter must:

A) Meet all employment eligibility requirements of the school district.

B) Demonstrate proficiency in English and the target language by passing State-approved language proficiency tests. A State-approved language proficiency test may include the following domains: listening, speaking, and reading (if the language exists in written form). An individual is exempt from the testing requirements under this paragraph if he or she meets any of the following:

i) For an English language proficiency test exemption, the individual possesses a post-secondary degree in which the official language of instruction, as documented, is English.

ii) For a target language proficiency test exemption, the individual:

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- possesses a post-secondary degree in which the official language of instruction, as documented, is the target language;
- possesses the State Seal of Biliteracy with a minimum score of Advanced Low in the target language;
- receives a score of 4 or higher on the AP language test in the target language;
- currently possesses or used to possess an educator license with stipulations endorsed for transitional bilingual educator or a professional educator license endorsed in LBSII/Bilingual Special Education Specialist; or
- currently possesses an Administrative Office of the Illinois Courts Court Interpreter Certification, a Certified Medical Interpreter Certification, or an Advanced Proficiency Level Interpreter License under 68 Ill. Adm. Code 1515, and the individual has completed additional coursework on special education terminology, as referenced in subparagraph (C).

In an instance of a target language for which an exam does not yet exist, a reliable alternative assessment or documentation of proficiency in that language shall be established by the State Board if it is not be feasible for the State Board to otherwise offer a test in that language within a reasonable amount of time.

- C) Complete at least three hours of training on special education terminology and protocol.
- D) Complete at least nine hours of training on interpreting in and out of English, interpretation standards of practice, ethics, and confidentiality, the role of the interpreter and role boundaries, respect, impartiality, professionalism, cultural awareness, and advocacy for communication and cultural needs. This training

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must include videos demonstrating proper and improper interpretation techniques.

E) After completing the required training, successfully complete with a score of 80% or higher a written examination to demonstrate knowledge of special education terminology and protocol, interpretation standards and techniques, and interpretation ethics, and successfully complete an oral examination with a score of 70% or higher to demonstrate proficiency to interpret in and out of English, through consecutive or simultaneous interpreting, and sight translation.

2) To maintain the designation of “Qualified Interpreter”, an individual must, at least once every two years, participate in at least six hours of ongoing professional development related to interpretation in the following categories:

A) Confidentiality.

B) Accuracy.

C) Impartiality.

D) Interpreter ethics and professionalism.

E) Cultural awareness.

F) Special Education processes.

G) Special Education vocabulary.

H) Language acquisition.

(Source: Amended at 44 Ill. Reg. _____, effective _____)