TITLE 23: EDUCATION AND CULTURAL RESOURCES
SUBTITLE A: EDUCATION
CHAPTER I: STATE BOARD OF EDUCATION
SUBCHAPTER l: NONPUBLIC ELEMENTARY AND SECONDARY SCHOOLS

PART 401
SPECIAL EDUCATION FACILITIES UNDER SECTION 14-7.02 OF THE SCHOOL CODE

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AUTHORITY: Implementing and authorized by Sections 14-7.02 and 14-8.01 of the School Code [105 ILCS 5/14-7.02 and 14-8.01].

SOURCE: Adopted July 25, 1973; emergency amendment at 4 Ill. Reg. 39, p. 323, effective September 15, 1980, for a maximum of 150 days; amended at 5 Ill. Reg. 4576, effective April 9, 1981; codified at 7 Ill. Reg. 14966; Part repealed, new Part adopted at 19 Ill. Reg. 7185, effective May 10, 1995; amended at 30 Ill. Reg. 8818, effective April 25, 2006; amended at 31 Ill. Reg. 14050, effective September 24, 2007; emergency amendment at 32 Ill. Reg. 4843, effective March 21, 2008, for a maximum of 150 days; emergency amendment suspended at 32 Ill. Reg. 9764, effective June 17, 2008; suspension withdrawn at 32 Ill. Reg. 13093, effective July 16, 2008; emergency amendments repealed by emergency rulemaking at 32 Ill. Reg. 13079, effective July 16, 2008, for the remainder of the 150 days; amended at 33 Ill. Reg. 15285, effective October 20, 2009; amended at 39 Ill. Reg. 14758, effective October 22, 2015; amended at 42 Ill. Reg. 6471, effective March 21, 2018; emergency amendment at 45 Ill. Reg. 3691, effective March 3, 2021, for a maximum of 150 days; emergency expired July 30, 2021; emergency amendment at 45 Ill. Reg. 11407, effective August 26, 2021, for a maximum of 150 days; emergency expired January 22, 2022; amended at 45 Ill. Reg. 14968, effective November 10, 2021; emergency amendment at 46 Ill. Reg. 3016, effective February 4, 2022, for a maximum of 150 days; amended at 46 Ill. Reg. 6486, effective April 11, 2022; emergency rule expired July 3, 2022; amended at 46 Ill. Reg. 13278, effective July 13, 2022; amended at 49 Ill. Reg. 6929, effective May 5, 2025.

SUBPART A: APPROVAL OF PROGRAMS

Section 401.2 Regulatory Intent

An SBE approved provider under this Part shall administer special education programs. These programs are appropriate when an IEP Team determines that no less restrictive setting on the continuum of alternative placements is appropriate within the home district to meet the student's needs. This requirement shall not preclude the SBE approved provider from serving other students placed via alternative means, so long as the services provided to the student placed pursuant to the decision of a public school district's IEP team are sufficient and appropriate for the student to make progress.

(Source: Added at 42 Ill. Reg. 6471, effective March 21, 2018)

Section 401.5 Definitions

"Business Day" means Monday through Friday, except federal and State holidays.

"Combination Program" is a program that includes both educational and residential services.

"Educational Program" is a program consisting of special education and related services intended to meet the specific needs of the unique populations served.

"Facility" is the physical premises where a provider offers services.

"IEP Team" has the meaning ascribed in 34 CFR 300.23.

"Imminent Danger" is a situation in which the life or health of a student is knowingly or blatantly disregarded by:

causing a real, significant, or impending risk of harm;

permitting the life or health of a student with a disability (as defined in the Individuals with Disabilities Education Act (20 U.S.C. 1400 et seq.)) to be threatened; or

causing or permitting a student to be placed in circumstances that endanger the student's life or health.

"Individualized Education Program" or "IEP" is a written statement for a student with a disability that conforms to the requirements of 34 CFR 300.320 and, for Illinois students, meets the requirements of 23 Ill. Adm. Code 226.230 (Content of the IEP).

"ISBE" means the Illinois State Board of Education.

"ISBE-approved" or "ISBE approval" means the approval of program in accordance with this Part.

"Professional Staff" means administrators, supervisors, teachers, and providers of related services, appropriately licensed in accordance with 23 Ill. Adm. Code 25 or 226.800 or Section 401.240, who either provide or direct the provision of special education or related services specified in the IEPs of students served, or who evaluate student progress or evaluate the provision of those special education

or related services. Facilities located outside the State of Illinois shall provide evidence of professional licensure/certification granted by their respective state licensing agencies for all employed personnel. ISBE shall review the qualifications of each position to ensure comparability to the qualifications of Illinois personnel established in statute and Title 23 of the Illinois Administrative Code. Professional staff does not include persons providing services other than special education and related services specified in the IEP or whose duties are limited to assisting professional staff.

"Program" is a set of educational and/or residential services provided by professional staff to meet specific needs of the unique population served.

"Programmatic Outcomes" are evidence of progress towards goals established by the program and are intended to demonstrate continuous program improvement. The provider shall not only establish goals for itself but shall also collect and analyze data for enrolled students with disabilities in alignment with those self-established goals. Further, this information shall be shared with the ISBE and with contracting districts to determine the nature of future technical assistance to the provider and to promote transparency.

"Provider" is any organization that offers special education and/or residential services to students with disabilities under contract with one or more Illinois public school districts and pursuant to Section 14-7.02 of the School Code. A provider under this Part does not include an organization providing emergency and student-specific residential placements pursuant to 23 Ill. Adm. Code 226.330(g) or (i).

"Related Services" has the meaning ascribed in 23 Ill. Adm. Code 226.75.

"School Code" means 105 ILCS 5.

"Special Education" has the meaning ascribed in 23 Ill. Adm. Code 226.75.

"State Superintendent" means the State Superintendent of Education or the State Superintendent's designee.

(Source: Amended at 49 Ill. Reg. 6929, effective May 5, 2025)

Section 401.10 Application for Eligibility

Each provider seeking to become eligible to contract with Illinois public school districts to serve students with disabilities under Section 14-7.02 of the School Code shall be subject to the ISBE approval process described in this Section. The provider shall be a nonpublic special education program designed to serve students with disabilities. In accordance with 23 Ill. Adm. Code 226.330 (Placement by School District in State-Operated or Nonpublic Special Education Facilities), ISBE-approved nonpublic special education programs shall provide a highly specialized option for public school districts to use when an IEP Team determines that no less restrictive setting on the continuum of alternative placements will meet the student's needs. ISBE approval shall be specific to individual programs offered by a provider, and the same type of program conducted at two separate facilities shall be treated as two separate programs for purposes of approval. Public school districts shall not use a program not approved in accordance with the requirements of this Part to serve students with disabilities under Section 14-7.02 of the School Code, except for facilities used for emergency and student-specific residential placements pursuant to 23 Ill. Adm. Code 226.330(g) or (i).

a) An application for initial ISBE approval of educational programs and/or combination programs, presented on forms supplied by the State Superintendent and containing all the items enumerated in this subsection (a), shall be submitted to the State Superintendent. Each application shall include the following:

1) An accurate, written description of the program for which ISBE approval is requested shall include the following:

A) The disability categories and ages of students with disabilities for whom it is specifically intended;

B) The purpose and scope of the provider and its specific program services;

C) Programmatic outcomes and the data that will be collected on the programmatic outcomes achieved by those students, which shall reflect the students' learning goals as described in their respective IEPs;

D) The maximum number of students the program is intended to accommodate;

E) A description of the program's philosophy and methodology behind working towards reintegrating students into the general education environment or supporting students towards their least restrictive environment;

F) Program history and mission/vision statement;

G) Disability and instructional style for each eligibility category the program is seeking approval for; and

H) A description of what related services are offered, how they will be provided, and by whom.

2) A written plan for the administration and organization of the programs, including, but not limited to, the following:

A) A labeled floor plan for the allocation of space solely for program purposes; and

B) An organizational chart that reflects the provider's governance, administrative, and educational structures.

3) The provider's proposed calendar for the program for which approval is sought. The proposed calendar shall meet the following requirements:

A) Regular School Year
Each provider's operating schedule shall include at least 176 days of student attendance for at least five instructional hours per school day during the regular school year. Related services listed in the student's IEP are included in meeting the instructional hour requirement. Instructional hours shall not include lunch, passing time or recess, unless otherwise specified by the individual student's IEP. A provider may have two full-day parent/teacher conferences. This option reduces the required number of student days to 174.

B) Educational Programming Outside of the Regular School Year
If programming takes place and is operated at a facility located within Illinois, it shall consist of at least 120 hours of instruction. Programming operated at a facility in another state may consist of fewer than 120 hours of instruction if approved by the responsible authority in that state. This subsection (a)(3)(B) will be effective beginning with the 2020-2021 school year.

4) A copy of the appropriate inspection reports/documentation:

A) One of the following, which shall indicate no violations:

i) the State Fire Marshal's most recent inspection report for the facility, which shall be no more than 36 months old at the time the application is approved;

ii) an inspection report for the facility from a local governmental agency that is no more than 12 months old; or

iii) for an out-of-state facility, equivalent, current documentation of compliance with applicable state fire codes, or, if there is no state fire code, the applicable local fire code, clearly identifying the issuing authority.

B) If the program is building new construction or renovating an existing building, the occupancy permit must be provided in addition to the reports in subsection (a)(4)(A).

C) For an Illinois facility that is subject to the provisions of 23 Ill. Adm. Code 180 (Health/Life Safety Code for Public Schools), the full report of the regional superintendent's most recent inspection conducted pursuant to Section 3-14.21 of the School Code. In the case of a report that contains violations, a copy of the occupancy permit will be required;

5) A Statement of Assurances that requires the signature of the facility's chief administrator acknowledging that the program complies with the following laws and regulations (see the Application for Nonpublic Programs, provided by ISBE):

A) Federal Laws

i) Adam Walsh Child Protection and Safety Act of 2006 (42 U.S.C. 16911)

ii) Title IX of the Education Amendments of 1972 (20 U.S.C. 1681)

iii) Age Discrimination in Employment Act of 1967 (29 U.S.C. 621)

iv) Individuals with Disabilities Education Act (20 U.S.C. 1400)

v) Americans With Disabilities Act of 1990 (42 U.S.C. 12101)

vi) Titles IV and VII of the Civil Rights Act of 1964 (42 U.S.C. 2000d)

B) State Laws and Regulations

i) Administrative Hearings [5 ILCS 100/Art. 10]

ii) Provisions of the School Code [105 ILCS 5/2-3.64a-5, 3-14.21, 10-20.14b, 10-22.21b, 10-21.4a, 14-4.01, and 14-7.02]

iii) Illinois School Student Records Act [105 ILCS 10]

iv) Illinois Uniform Conviction Information Act [20 ILCS 2635]

v) Sex Offender Community Notification Law [730 ILCS 152]

vi) Certification of Information to Licensing Agencies [305 ILCS 5/10-17.6]

vii) Illinois Murderer and Violent Offender Against Youth Registry [730 ILCS 154/85]

viii) Illinois Human Rights Act [775 ILCS 5]

ix) Public Works Employment Discrimination Act [775 ILCS 10]

x) Faith's Law (Public Acts 102-0676 and 102-0702)

xi) Public Schools Evaluation, Recognition and Supervision (23 Ill. Adm. Code 1.30, 1.50, 1.280, and 1.285)

xii) Educator Licensure (23 Ill. Adm. Code 25.510)

xiii) Health/Life Safety Code for Public Schools (23 Ill. Adm. Code 180)

xiv) Special Education (23 Ill. Adm. Code 226)

xv) Contested Cases and Other Formal Hearings (23 Ill. Adm. Code 475)

xvi) Illinois Purchased Care Review Board (89 Ill. Adm. Code 900)

6) If the facility is located in Illinois and offers a residential component, evidence of the facility's current licensure, certification, or approval by the responsible agency of Illinois government. The requirements of this subsection (a)(6) shall apply to contractual agreements for placements entered into on or after July 1, 2018. Nothing in this subsection (a)(6) shall be construed to disrupt, impact, or nullify current contractual agreements for placements unless the IEP team determines another placement is more appropriate or the student reaches an age at which the student is no longer eligible for services under the IEP.

7) If the facility is located outside Illinois, evidence of the facility's current licensure, certification, or approval to operate its educational and/or residential programs in the state where it is located, including a copy of the standards or criteria used by the responsible agency in that state. If the state in which the facility is located does not regulate the program, the program is ineligible for ISBE approval. The requirements of this subsection (a)(7) shall apply to contractual agreements for placements entered into on or after July 1, 2018. Nothing in this subsection (a)(7) shall be construed to disrupt, impact, or nullify contractual agreements for placements in effect on or before June 30, 2018. A sibling of a student who is placed pursuant to a contractual agreement in place on or before June 30, 2018 who is also served under Section 14-7.02 of the School Code may be placed at the same facility after July 1, 2018 if the sibling's IEP team determines that is the most appropriate placement.

8) For instructional programs, summary information about all professional staff positions, and copies of the relevant credentials of persons employed in those positions, demonstrating that the facility has sufficient staff available who are qualified pursuant to the requirements of Section 401.240 in order to operate the program.

9) For instructional programs, summaries of related services provided by the facility's professional staff or available to the provider under contract, demonstrating that the provider has sufficient related services available to

operate the program.

10) For programs serving students for whom behavioral interventions may be appropriate, a description of the provider's formalized approach to the use of these interventions, subject to the limitation stated in Section 401.140(a). Starting with the 2019-2020 school year, providers using disciplinary or behavioral techniques or interventions prohibited in Illinois are not eligible for approval in Illinois, except as otherwise provided in Section 14-7.02 of the School Code.

b) An application for initial ISBE approval of residential only programs, presented on forms supplied by the State Superintendent and containing all the items enumerated in this subsection (b), shall be submitted to the State Superintendent. Each application shall include the following:

1) An accurate, written description of each program for which ISBE approval is requested shall include the following:

A) The disability categories and ages of students with disabilities for whom it is specifically intended;

B) The purpose and scope of the provider and its specific program services;

C) The maximum number of students the program is intended to accommodate; and

D) Program history and mission/vision statement

2) A copy of the appropriate inspection reports/documentation:

A) One of the following, which shall indicate no violations:

i) The State Fire Marshal's most recent inspection report for the facility, which shall be no more than 36 months old at the time the application is approved;

ii) An inspection report for the facility from a local governmental agency that is no more than 12 months old; or

iii) For an out-of-state facility, equivalent, current documentation of compliance with applicable state fire

codes, or, if there is no state fire code, the applicable local fire code, clearly identifying the issuing authority.

B) If the program is building new construction or renovating an existing building, the occupancy permit must be provided in addition to the reports in subsection (b)(2)(A).

C) For an Illinois facility that is subject to the provisions of 23 Ill. Adm. Code 180 (Health/Life Safety Code for Public Schools), the full report of the regional superintendent's most recent inspection conducted pursuant to Section 3-14.21 of the School Code. In the case of a report that contains violations, a copy of the occupancy permit will be required;

3) A statement of assurances that requires the signature of the facility's chief administrator acknowledging that the program complies with the following laws and regulations (see the Application for Nonpublic Programs, provided by ISBE):

A) Federal Laws

i) Adam Walsh Child Protection and Safety Act of 2006 (42 U.S.C. 16911)

ii) Title IX of the Education Amendments of 1972 (20 U.S.C. 1681)

iii) Age Discrimination in Employment Act of 1967 (29 U.S.C. 621)

iv) Individuals with Disabilities Education Act (20 U.S.C. 1400)

v) Americans With Disabilities Act of 1990 (42 U.S.C. 12101)

vi) Titles IV and VII of the Civil Rights Act of 1964 (42 U.S.C. 2000d)

B) State Laws and Regulations

i) Administrative Hearings [5 ILCS 100/Art. 10]

ii) Provisions of the School Code [105 ILCS 5/2-3.64a-5, 3-14.21, 10-20.14b, 10-22.21b, 10-21.4a, 14-4.01, and 14-7.02]

iii) Illinois School Student Records Act [105 ILCS 10]

iv) Illinois Uniform Conviction Information Act [20 ILCS 2635]

v) Sex Offender Community Notification Law [730 ILCS 152]

vi) Certification of Information to Licensing Agencies [305 ILCS 5/10-17.6]

vii) Illinois Murderer and Violent Offender Against Youth Registry [730 ILCS 154/85]

viii) Illinois Human Rights Act [775 ILCS 5]

ix) Public Works Employment Discrimination Act [775 ILCS 10]

x) Public Schools Evaluation, Recognition and Supervision (23 Ill. Adm. Code 1.30, 1.50, 1.280, and 1.285)

xi) Educator Licensure (23 Ill. Adm. Code 25.510)

xii) Health/Life Safety Code for Public Schools (23 Ill. Adm. Code 180)

xiii) Special Education (23 Ill. Adm. Code 226)

xiv) Contested Cases and Other Formal Hearings (23 Ill. Adm. Code 475)

xv) Illinois Purchased Care Review Board (89 Ill. Adm. Code 900)

xvi) Faith's Law (Public Acts 102-0676 and 102-0702)

4) If the facility is located in Illinois, evidence of the facility's current licensure, certification, or approval by the responsible agency of Illinois

government. The requirements of this subsection (b)(4) shall apply to contractual agreements for placements entered into on or after July 1, 2018. Nothing in this subsection (b)(4) shall be construed to disrupt, impact, or nullify current contractual agreements for placements unless the IEP team determines another placement is more appropriate or the student reaches an age at which the student is no longer eligible for services under the IEP.

5) If the facility is located outside Illinois, evidence of the facility's current licensure, certification, or approval to operate its program in the state where it is located, including a copy of the standards or criteria used by the responsible agency in that state. If the state in which the facility is located does not regulate the program, the program is ineligible for ISBE approval. The requirements of this subsection (b)(5) shall apply to contractual agreements for placements entered into on or after July 1, 2018. Nothing in this subsection (b)(5) shall be construed to disrupt, impact, or nullify contractual agreements for placements in effect on or before June 30, 2018. A sibling of a student who is placed pursuant to a contractual agreement in place on or before June 30, 2018 who is also served under Section 14-7.02 of the School Code may be placed at the same facility after July 1, 2018 if the sibling's IEP team determines that is the most appropriate placement.

6) For programs serving students for whom behavioral interventions may be appropriate, a description of the provider's formalized approach to the use of these interventions, subject to the limitation stated in Section 401.140(a). Starting with the 2019-2020 school year, providers using disciplinary or behavioral techniques or interventions prohibited in Illinois are not eligible for approval in Illinois, except as otherwise provided in Section 14-7.02 of the School Code.

c) Upon submission of an initial application, the provider will be required to complete a scheduled nonpublic special education orientation. The orientation shall be completed prior to a final determination being made on the application. This requirement may be waived for providers that have completed one or more onsite reviews and/or two-year renewal reviews that yielded no findings and have not had a status change within the last five years.

d) If the application is complete and the facility is located in Illinois or within 50 miles of Illinois, ISBE staff shall conduct an on-site review and evaluate the facility and the programs offered for the purpose of verifying the accuracy of the application, evaluating their compliance with the other requirements of this Part, and recommending approval or disapproval of the programs.

1) An out-of-state program located more than 50 miles outside of Illinois may be approved without a site visit from an Illinois representative if the following conditions are satisfied:

A) The educational program is an approved special education program in the state where the facility is located and this approval was granted in light of the information gathered during a site visit by a representative of the responsible agency;

B) The residential component, if any, is regulated by the responsible agency in the state where the facility is located; and

C) The application provides evidence that the requirements of Section 410.140 will be met.

2) An out-of-state program located more than 50 miles outside of Illinois that was approved in the state where the facility is located without a site visit by the responsible agency may be visited by a representative of ISBE in order to verify the accuracy of the application and determine whether the requirements of this Part have been met so that Illinois approval can be granted.

e) Applications will be reviewed on a rolling basis as they are received. There is no specific timeline for the processing of applications.

f) An initial application that does not meet the requirements of this Part shall be provided with a notice of the specific deficiencies. If the deficiencies have not been remedied in their entirety within one year after receipt of the notice, ISBE shall deny the provider's approval.

g) An application for renewal of ISBE approval, consisting of all the components set forth in subsection (a), shall be submitted for any subsequent period in which a provider seeks to contract with Illinois public school districts to serve students with disabilities in the facility under Section 14-7.02 of the School Code. The submission deadline shall be the March 15 prior to the beginning of the school year in question. If March 15 is not a business day, the deadline shall fall on the next business day. The ISBE approval process for any subsequent period may also involve on-site reviews, at the sole discretion of the State Superintendent.

1) The denial of an application for renewal of ISBE approval shall cause the program approval status to change to "nonapproved" subject to the procedures set forth in Section 401.30(c).

2) Renewed approval generally shall be valid for two school years, ending on the last day of the program's approved calendar for the second school year, unless approval is changed pursuant to Section 401.30. The first renewal of ISBE approval for a new program offered by a provider that already operates other approved programs shall be granted for the number of years that will place it on the cycle already established for that provider.

(Source: Amended at 49 Ill. Reg. 6929, effective May 5, 2025)

Section 401.11 Program and Facility Approval

A program is deemed eligible for approval upon satisfactory completion of all components under Sections 401.10 and 401.110 of this Part. The provider operating the facility shall be notified in writing of the date of program approval. Upon the date of the initial one-year approval letter, the program shall be made available to Illinois public school districts to service students with disabilities under Section 14-7.02 of the School Code.

a) Initial approval shall end no later than one calendar year from the approval date, inclusive of the one-year onsite visit, unless approval is changed pursuant to Section 401.30.

b) A program shall serve only the specific student demographics described in the application. All program changes or additions to disability categories or services, age range service, or changes in location shall be approved by the State Superintendent prior to that change or addition being made.

(Source: 49 Ill. Reg. 6929, effective May 5, 2025)

Section 401.20 Notification Requirements

a) A provider that operates a facility subject to the requirements of this Part and intends to cease operations, move to a new location, expand existing physical facilities, or to discontinue any of the facility's approved programs shall ensure that the State Superintendent and each public school district with which it has entered into contracts for services receive no less than 40 business days' written notice of that intention. A provider shall also notify the State Superintendent in writing, so that the notification is reasonably calculated to be received at the State Board of Education's office at 100 North First Street, Springfield, Illinois 62777, within 40 business days after the following:

1) Any change in its educational administration and organization, as described in its SBE approved application; and

2) Any change in the number, type, or duties of the professional staff positions identified as part of the application for SBE approval or in the licensure status or credentials of any individual employed in such a position, provided that the change does not affect the program's or facility's compliance with the requirements of this Part.

b) A provider shall notify the State Superintendent in writing, so that the notification is reasonably calculated to be received at the State Board of Education's office at 100 North First Street, Springfield, Illinois 62777, within five business days after the following:

1) Any change in the facility's compliance with applicable fire prevention regulations or other federal, state, and local laws, ordinances, or regulations, as described in its approved application pursuant to Section 401.10(a)(5), or in the physical facilities used;

2) Any change in the facility's approval or licensure to provide a residential program as described in its approved application;

3) Any change in the facility's approval or licensure to operate in a state other than Illinois as described in its approved application;

4) Any change in the number, type, or duties of the professional or paraprofessional positions identified as part of the application for SBE approval of an educational program or the education component of a combination program, or in the licensure/certification status or credentials of any individual employed in such a position, if the change will affect the program's compliance with the requirements of this Part.

A) If any professional staff position subject to the notification requirements of this subsection (b)(4) remains vacant, the provider shall provide written notification to the State Superintendent and to the placing public school districts after 20 business days, after 40 business days, and again every 40 business days thereafter until the vacant position has been filled of its attempts to permanently fill those positions and of other efforts, including the use of substitutes or the use of virtual instruction, undertaken in order to provide necessary instruction and related services to the students enrolled.

B) If the State Superintendent determines that the provider has not reported staffing changes in a program as required, the State Superintendent shall change the approval status of the program accordingly, pursuant to the provisions of Section 401.30.

c) Before a provider that operates a nonpublic special education facility terminates a student's placement in a facility, the provider must request an IEP meeting from the contracting school district. If the provider elects to terminate the student's placement following the IEP meeting, the provider must give written notice to this effect to the contracting public school district, the student's parent or guardian, and the State Board of Education no later than 20 business days before the date of termination, unless the health and safety of any student are endangered. The notice must include the detailed reasons for the termination and any actions taken to address the reasons for the termination.

d) Notification to State Superintendent regarding any breaches of test security or other testing irregularities in connection with the State assessment shall conform to the requirements of Section 401.145.

(Source: Amended at 49 Ill. Reg. 6929, effective May 5, 2025)

Section 401.30 Changes in Approval Status

SBE approved programs that serve students with disabilities under Section 14-7.02 of the School Code, whether located in Illinois or out of state, shall be evaluated periodically by the State Board of Education. The evaluation may take place for any reason, with or without prior notice to the provider, and at the sole discretion of the State Board of Education and may involve an on-site review. The evaluation shall result in either retention of approved status or assignment of one of the following statuses:

a) A status of "Approved with Administrative Review" shall be assigned when an instance of noncompliance by an approved program is first identified during a school year and the State Superintendent determines that that noncompliance does not substantially affect the safety of, or provision of appropriate education to, the students enrolled. The State Superintendent shall outline each area of noncompliance in a written report with the corrective actions and timeline required to remedy each area. The provider shall have 80 business days to remedy all areas of noncompliance.

1) Every 20 business days after notification that it is approved with administrative review (up to the 80-business-day timeframe for this status), an affected provider shall file with the State Superintendent a progress report describing actions taken to correct the instances of noncompliance identified.

2) If the State Superintendent determines that the provider has corrected the instances of noncompliance within the time allotted, the program's "Approved" status shall be restored.

3) If the State Superintendent determines that the provider has failed to correct the instances of noncompliance within the time allotted, a status of "Pending Further Review" shall be assigned to the program. A provider that is subject to the requirements of this Part shall not accept a new student from a public school district into a program whose status is "Pending Further Review". Upon notification of the "Pending Further Review" status, a public school district shall not make new placements into those programs.

b) A status of "Pending Further Review" shall be assigned whenever a program is determined to be in noncompliance with one or more requirements of this Part that may substantially affect the safety of or provision of appropriate education to students but that does not constitute imminent danger, or exhibits recurrent instances of minor noncompliance. The provider shall have 40 business days to remedy the noncompliance.

1) As soon as practicable, but no longer than five business days, following the receipt of notification from the State Superintendent that a program has been assigned a status of "Pending Further Review", the program shall notify all contracting public school districts of the change in status, including the cited violations upon which the change in status is based and the established timeline to remedy the noncompliance. A copy of this notification must be provided to the State Superintendent.

2) No more than 10 business days after receipt of notification from the State Superintendent of Education that program approval status is pending further review, an affected provider shall submit a written report to the State Superintendent describing its plans for correcting the noncompliance identified and the actions taken to correct it. Every 10 business days thereafter, an affected provider shall file with the State Superintendent a progress report describing the actions taken to correct the instances of noncompliance or the expiration of the 40-business-day timeline.

3) If the provider demonstrates that it has corrected all instances of noncompliance within the time allotted, its "Approved" status shall be restored.

4) If the provider has corrected the instances of noncompliance that may substantially affect the safety or the provision of appropriate education to students, or were recurrent instances of minor noncompliance, but has not remedied other instances of noncompliance, its status must be changed to "Approved with Administrative Review".

5) If the provider fails to demonstrate within the time allotted that it has corrected the instances of noncompliance that may substantially affect the safety or the provision of appropriate education to students, its status shall be changed to "Nonapproved". If the State Superintendent determines the provider is demonstrating progress toward correcting instances of noncompliance that may substantially affect the safety of or the provision of appropriate education to students, and any continued instances of noncompliance do not constitute imminent danger, then the provider will be assigned a subsequent status of "Pending Further Review". If the provider continues to exhibit recurring instances of documented noncompliance, or it is determined that the provider is no longer demonstrating progress toward correcting instances of noncompliance, its status shall be changed to "Nonapproved".

6) A provider that is subject to the requirements of this Part shall not accept

any new students from public school districts into any program whose status is "Pending Further Review". Upon notification of the designation of "Pending Further Review" status, a public school district shall not make new placements into those programs.

c) A status of "Nonapproved" shall be assigned to a program or programs previously assigned a status of "Approved with Administrative Review" or "Pending Further Review" when the nonpublic facility or any of its programs exhibits substantial and/or recurrent instances of noncompliance, showing that the provider is consistently unable to meet the approval requirements of this Part. A program may be determined "Nonapproved" without previously having been assigned a status of "Approved with Administrative Review" or "Pending Further Review," if any instances of noncompliance that present imminent danger to the students exist or if the State Superintendent verifies that the provider has unilaterally and intentionally ceased providing appropriate education pursuant to a public school district's contracts and one or more students' IEPs.

1) A status of "Nonapproved" voids the provider's eligibility to contract with Illinois public school districts to serve students and receive funds under Section 14-7.02 of the School Code in the nonapproved programs for the remainder of the school year.

2) Providers shall be given 20 business days' notice by the State Superintendent before nonapproval becomes effective, unless imminent danger to students precludes that notice. The State Superintendent shall also give 20 business days' notice to affected public school districts to enable them to implement other arrangements prior to the effective date of nonapproval, as required.

3) The provider of any previously approved program placed on nonapproved status shall be afforded an opportunity for a hearing pursuant to the Illinois Administrative Procedure Act [5 ILCS 100] and the State Board of Education's rules for Contested Cases and Other Formal Hearings (23 Ill. Adm. Code 475). Unless the State Superintendent identifies that the reasons for nonapproved status are a danger to student health or safety, a request for a hearing shall stay the effect of the change in status and the program shall remain at the last assigned status prior to nonapproval pending the outcome of the hearing.

d) Any provider whose license or approval to operate a residential program is revoked shall immediately have its residential programs nonapproved and will be ineligible to provide residential services to students under Section 14-7.02 of the School Code. An admissions hold placed on a residential program by the

residential program's licensing agent will constitute a reciprocal admissions hold barring public school districts from making new placements to that provider residentially. The provider shall notify ISBE when an admissions hold is placed on the residential program no later than five business days after the admissions hold takes effect.

e) Any out-of-state provider whose license or approval to operate a program is revoked by the responsible authority in the state where its facility is located shall immediately have its affected programs nonapproved and will be ineligible to contract with Illinois public school districts to serve students under Section 14-7.02 of the School Code. An admissions hold placed on a residential program by the residential program's licensing agent will constitute a reciprocal admissions hold barring public school districts from making new placements with that provider educationally. The provider shall notify ISBE when an admissions hold is placed on the residential program no later than five business days after the admissions hold takes effect.

f) Nonapproval of a program during a school year shall be cause for termination of all the provider's contracts with Illinois public school districts for that program, and the provider shall be ineligible to contract with Illinois public school districts for the nonapproved program.

(Source: Amended at 49 Ill. Reg. 6929, effective May 5, 2025)

SUBPART B: PLACEMENT AND EDUCATION OF STUDENTS

Section 401.110 Use by Public School Districts

Each public school district shall be responsible for monitoring the performance of each program where its students are placed, to ensure that the implementation of each student's IEP conforms to the applicable requirements of all applicable federal and State laws and regulations, including, but not limited to, 23 Ill. Adm. Code 226 (Special Education). Contracting with a program in accordance with this Part does not relieve the 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. In addition, except for emergency and student-specific residential placements made pursuant to 23 Ill. Adm. Code 226.330(g) or (i), no public school district shall place any student in a special education program that is subject to the requirements of this Part, nor shall the provider of any program accept placement of any student under Section 14-7.02 of the School Code, unless all the following conditions have been met:

a) ISBE has approved the program for the school year for which placement is sought;

b) The Purchased Care Review Board has established the allowable costs for the program pursuant to Section 14-7.02 of the School Code;

c) The district has made the certification of inability to meet the student's needs to the State Superintendent, if required pursuant to Section 14-7.02 of the School Code, and the State Superintendent has found the district in substantial compliance with Section 14-4.01 of the School Code;

d) ISBE has approved the program for all of the categories of impairment applicable to the student and requiring services as identified in the IEP;

e) ISBE has approved the program for the age range that includes the age of the student;

f) The district has determined that educational programming and related services specified on the student's IEP will be provided to the student. The use of a facility or program in accordance with this Part does not relieve the 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; and

g) The district and the provider have entered into the contractual agreement called for in 23 Ill. Adm. Code 226.330.

(Source: Amended at 49 Ill. Reg. 6929, effective May 5, 2025)

Section 401.120 Placement Procedures

Placement of students shall conform to the applicable requirements of 23 Ill. Adm. Code 226.

(Source: Amended at 42 Ill. Reg. 6471, effective March 21, 2018)

Section 401.130 Operating Schedule

Each provider's operating schedule shall meet the following requirements:

a) Regular School Year
Each provider's operating schedule shall include at least 176 days of student attendance for at least 5 instructional hours per school day during the regular school year. Related services listed in the student's IEP are included in meeting the instructional hour requirement. Instructional hours shall not include lunch, passing time or recess, unless otherwise specified by the individual student's IEP. A provider may have two full day parent/teacher conferences. This option reduces the required number of student attendance days to 174. This subsection (a) will be effective beginning with the 2020-2021 school year.

b) Educational Programing Outside the Regular School Year
If programing takes place and is operated at a facility located within Illinois, it shall consist of at least 120 hours of instruction. Programing operated at a facility in another state may consist of fewer than 120 hours of instruction if approved by the responsible authority in that state. This subsection (b) will be effective beginning with the 2020-2021 school year.

(Source: Amended at 42 Ill. Reg. 6471, effective March 21, 2018)

Section 401.140 Provision of Educational Program

a) Each provider shall ensure that each student receives special education and related services in accordance with the student's IEP, provided that the use of behavioral intervention strategies that would jeopardize the safety or security of students or would rely upon pain as an intentional method of control shall not be permitted. Providers utilizing disciplinary or behavioral techniques or interventions prohibited in Illinois are not eligible for approval, except as otherwise provided in Section 14-7.02 of the School Code.

b) Each educational program shall be conducted in accordance with the requirements of 23 Ill. Adm. Code 226.720 (Facilities and Classes).

c) Each classroom in a program subject to this Part shall have a maximum enrollment of five students per licensed/certified special education teacher in the classroom. The enrollment in a class may be increased by a maximum of five students when a full-time paraprofessional or other professional staff is provided, for a maximum of 10 students. In circumstances in which virtual instruction is being provided, there must be additional staff physically present in the classroom to maintain a ratio of 5:1.

d) Deviations from the allowable class size requirements of subsection (c) or from subsection (b) may be requested in writing. A rationale for the request (e.g., a staff member resigns right before the start of the school year and the facility can provide documentation that it is actively pursuing filling the vacancy but has not yet found a qualified individual for the position) and plan for evaluation of the deviations shall be submitted with the request.

(Source: Amended at 49 Ill. Reg. 6929, effective May 5, 2025)

Section 401.145 Administration of State Assessment

An SBE approved facility that is located in Illinois may serve as a testing site for the State assessments required pursuant to Section 2-3.64a-5 of the School Code in accordance with the provisions of this Section. For purposes of this Section, a "testing site" is a facility at which responsible staff is permitted to order and receive test materials directly from the testing contractor according to the contractor's arrangement with the State Board of Education. A provider seeking designation of a facility as a testing site under this Section shall follow the specific communication procedures established by the State Superintendent for making the request, supplying the necessary information, and receiving the designation, as applicable to the examinations to be administered. The provider and responsible staff shall abide by all technical specifications established by the State Superintendent and test contractors to implement the requirements set forth at 23 Ill. Adm. Code 1.30 (State Assessment).

a) Required Conditions
If a provider operating an Illinois facility under this Part wishes to have the facility serve as a testing site for one or more State assessments, certain required conditions shall exist at the facility that will ensure the security and confidentiality of test materials and the validity of the resulting scores. The specifics of these requirements will vary according to which of the State assessments will be involved.

1) Locked facilities and storage for secure test materials shall exist, and access to these shall be limited to authorized individuals.

2) An adequate amount of space shall exist for the number of examinees, and each shall have an appropriate space in which to work. The facility shall provide an environment that will meet technical requirements for particular types of test administration, including accommodations for students with disabilities or English Language Learners.

3) The facility shall afford lighting, temperature and quiet such that the test environment will be free from interruptions and distractions.

b) Required Personnel Assignments and Qualifications

1) Each individual appointed to a role under this subsection (b) shall be an employee of the provider or facility. No volunteers or parents may serve in these positions.

2) The provider or chief administrator shall designate a testing coordinator for each assessment to be administered at a facility. An individual may

serve as coordinator for more than one of the assessments. The responsibilities of the testing coordinator shall include the following:

A) Ordering, distributing, collecting and returning test materials;

B) Training test administrators and proctors regarding their responsibilities;

C) Arranging for the accommodations called for in the students' IEPs;

D) Ensuring that neither test security nor the purpose of testing is compromised by any accommodations afforded to students; and

E) Overall monitoring of testing activities to ensure that required procedures are followed.

3) The assessment may be administered only by the following individuals:

A) Administrators holding educator licensure appropriate to their positions (e.g., assistant principals, principals or chief administrators);

B) Teachers holding licenses/certificates with endorsements appropriate to their positions (including holders of substitute teaching licenses/certificates and educator licenses with stipulations for provisional educator) and employed by the provider as teachers at the facility;

C) School psychologists, school social workers and school counselors holding educator licensure appropriate to their positions and employed by the provider at the facility in their respective professional capacities; and

D) Paraprofessional educators, provided that constant, line-of-sight supervision by a licensed/certified teacher employed by the provider as a teacher at the facility shall be required (including supervision for individuals employed as paraprofessional educators who are also licensed/certified teachers).

c) Required Procedures
Following the assessment requirements allowed by 23 Ill. Adm. Code 1.30 (State Assessment) and using the materials provided, the responsible individual at each testing site shall communicate with the testing contractors for the examinations to

be administered at that site. The State Superintendent shall furnish to staff at each testing site the same technical guidance as is provided to the public schools regarding details of the test administration, and responsible staff at each testing site shall ensure that these technical specifications are followed, including, but not limited to the following:

1) The dates established as the testing window;

2) The handling of test documents and other secure materials;

3) Permissible and impermissible objects in the testing environment;

4) Permissible and impermissible behavior on the part of test-takers;

5) Required, permissible and impermissible actions on the part of staff at the testing site.

d) The public school district that has placed a student with a disability into a program approved under this Part remains responsible for determining, in accordance with the student's IEP, where the student will take the appropriate State assessment and whether the test materials for that student are to be ordered and handled by district or facility personnel, even if the facility where the student is placed serves as a testing site for that assessment.

e) No State assessment shall be administered to any student who is not required to participate in the State assessment pursuant to Section 2-3.64a-5 of the School Code and 23 Ill. Adm. Code 1 (see Sections 1.30 and 1.50 (Calculation of Participation Rate)).

f) Any breach of test security or other testing irregularity shall be reported to the State Superintendent in accordance with instructions applicable to particular types of problems, using one of the methods identified by the State Superintendent. Responsible staff at the affected facility shall then follow the instructions provided by the State Superintendent or the relevant test contractor regarding the next steps to be taken in investigating the source of the problem, its implications, and its potential resolution.

(Source: Amended at 42 Ill. Reg. 6471, effective March 21, 2018)

Section 401.150 Classroom Records

In addition to records meeting the requirements of 23 Ill. Adm. Code 226.740 (Records; Confidentiality), there shall be an educational file for each student, maintained by the classroom teacher on a daily basis and updated as circumstances may require. This file shall contain at least the following:

a) The student's IEP, including a copy of any behavior management plan;

b) Documentation of ongoing evaluation procedures, indicating the student's progress toward fulfillment of the objectives set forth in the IEP according to the criteria specified in the IEP;

c) A schedule that accurately reflects the type and frequency of all related services received; and

d) Medically related information necessary to ensure the student's health and safety.

(Source: Amended at 42 Ill. Reg. 6471, effective March 21, 2018)

SUBPART C: OPERATIONAL REQUIREMENTS

Section 401.210 General Requirements

a) Every provider with one or more facilities or programs subject to this Part shall maintain the written program descriptions and the educational administration and organization plans described in Section 401.10, as well as the current, approved application for each affected program, and shall make these available to the public schools, parents and guardians of students and other interested individuals and organizations upon request.

b) Every provider subject to this Part shall maintain the following records:

1) Copies of this Part and the State Board of Education's rules for Special Education (23 Ill. Adm. Code 226) and make these available to staff and parents or guardians of students enrolled, so that these parties may be aware of rules that pertain to the education of students with disabilities served under Section 14-7.02 of the School Code;

2) A separate and current roster of students served in that provider's facility and programs pursuant to Section 14-7.02 of the School Code; and

3) Records of its administration, staff and physical facilities. Any changes shall be reported as required by Section 401.20.

c) All facilities, programs and records required, established or maintained pursuant to this Part shall be made available by the provider at any time, with or without prior notification, for inspection and evaluation by official representatives of the State Board of Education.

(Source: Amended at 42 Ill. Reg. 6471, effective March 21, 2018)

Section 401.220 Health and Safety Requirements

a) Illinois Facilities
Responsible staff at every Illinois facility subject to this Part shall maintain and make available for review a copy of the most recent inspection report, which shall be no more than 36 months old if issued by the State Fire Marshal or an inspection report for the facility from a local governmental agency that is no more than 12 months old, neither of which shall indicate violations, or, as applicable, the following:

1) For purposes of this subsection (a), a program operated within a facility that houses public school students or is otherwise used for public school purposes shall not be considered to be located in a "facility subject to this Part" because 23 Ill. Adm. Code 180 (Health/Life Safety Code for Public Schools) applies. In the case of a report that contains violations, a copy of the occupancy permit is required.

2) To the extent that evidence of compliance is routinely issued by State or local fire, building or health authorities, or is required to be issued by the regional superintendent of schools, Illinois facilities' staff shall maintain and make available that evidence of compliance with applicable codes. Any documentation shall clearly identify the issuing authority.

b) Illinois and Out-of-State Facilities

1) Responsible staff at every facility subject to this Part shall develop a written policy and procedure for safeguarding students' privacy and dignity during toileting, diapering, and other activities of personal care, as appropriate for the student population served. Facility staff shall adhere to the policy and procedure at all times and shall make copies available upon request.

2) Responsible staff at every facility subject to this Part shall develop a written policy addressing the administration of medication to students who may require it. Each facility's policy shall conform to the requirements set forth in Sections 10-20.14b and 10-22.21b of the School Code. Facility staff shall adhere to this policy at all times and shall make copies available upon request.

3) Every facility subject to this Part and all materials used by students shall be maintained in a clean, sanitary, and safe condition.

4) Smoking and the use of tobacco products by students shall not be

permitted on the campus of any facility subject to this Part.

5) The policies of every facility subject to this Part shall allow visitation at any time, with or without prior notice, by personnel from the State Board of Education or the contracting public school district of any enrolled student.

c) Out-of-State Facilities
To the extent that evidence of compliance is routinely issued by state or local fire, building or health authorities, out-of-state facility staff shall maintain and make available that evidence of compliance with applicable codes. Any documentation shall clearly identify the issuing authority.

(Source: Amended at 49 Ill. Reg. 6929, effective May 5, 2025)

Section 401.230 Student Progress Reports and Reviews

a) Responsible staff at each facility shall maintain attendance records for each student served pursuant to Section 14-7.02 of the School Code.

1) Each student's attendance shall be reported in writing or electronically to the public school district of residence by the 15th of each month for the preceding month.

2) A student's public school district of residence shall be notified immediately in writing or electronically after five consecutive days of absences, unless the district requires a more frequent reporting schedule.

3) Attendance records shall be retained as long as the student is placed at the facility.

b) Each student's progress (goals, reintegration, and transition) shall be reviewed with his or her parent or guardian and the respective public school district of residence as set forth in the child's IEP and in accordance with 34 CFR 300.320.

c) Responsible staff at each facility shall notify the respective public school district of residence immediately after they become aware of a change in residence or change in guardianship for the student.

(Source: Amended at 42 Ill. Reg. 6471, effective March 21, 2018)

Section 401.240 Staffing Requirements

a) The composition and qualifications of each facility's professional and paraprofessional staff shall be in accordance with the needs and requirements of the students with disabilities placed under Section 14-7.02 of the School Code. Each provider subject to this Part shall employ sufficient onsite professional staff, including staff having professional expertise and training in the disability-related educational needs of the students served in accordance with 23 Ill. Adm. Code 401.140 (Provision of Educational Program) and, to meet the requirements of 23 Ill. Adm. Code 226, Subpart I (Personnel), as those requirements are affected by Section 10-21.4a of the School Code and 23 Ill. Adm. Code 25 (Educator Licensure). Beginning with 2026-2027 school year, each facility's staff must include a full-time chief administrator of a special school or, in the instance the chief administrator oversees multiple program locations, a full-time supervisor or administrator who is located onsite and meets the requirements of 23 Ill. Adm. Code 226.800(g) or holds a valid professional educator license and a general administrative, principal, or director of special education endorsement, unless a head teacher is serving as permitted by Section 10-21.4a of the School Code, in which case the head teacher shall be required to hold a supervisory endorsement. This shall be allowable at educational programs with no more than three teachers, including the head teacher. Paraprofessional educators employed by facilities under this Part shall be subject to the requirements of 23 Ill. Adm. Code 25.510 (Endorsement for Paraprofessional Educators). Licenses/certificates issued by the Illinois Department of Financial and Professional Regulation (DFPR) or the licensing agency in the state in which the facility is located, are acceptable credentials. The position title listed on the application shall match the position titles listed in 23 Ill. Adm. Code 226, Subpart I or 23 Ill. Adm. Code 25 and/or the licenses/certificates issued by DFPR or the licensing agency in the state in which the facility is located.

b) A substitute teacher holding a valid license endorsed for early childhood, elementary, secondary, special K-12, or special preschool-age 22 or holding a substitute teaching license/certificate, shall be employed to replace absent teachers. Only teachers holding a license/certificate or teaching approval in special education, as applicable to the students to be taught, shall be used to open new classrooms, begin a school year, or meet the staffing requirements set forth in this Section for purposes of approval of an application for eligibility.

c) Facilities located outside Illinois shall employ personnel who possess the specific qualifications comparable to those issued in Illinois in connection with the positions in question.

d) If the State Superintendent determines that a program has been operated for more

than 40 business days in noncompliance with the requirements of this Section, the State Superintendent shall change the provider's SBE approval status accordingly, pursuant to the provisions of Section 401.30.

(Source: Amended at 49 Ill. Reg. 6929, effective May 5, 2025)

Section 401.250 Staff Training

Each provider subject to this Part shall develop and implement ongoing inservice training programs related to the duties of all staff.

a) Each provider shall prepare and keep on file an annual plan for inservice training in areas where improvement is desirable. The provider shall identify these areas based upon an analysis of each program's outcome data and based on student achievement in relation to the goals and objectives of the program. Training sessions shall be planned and designed to assist staff members in improving their ability to fulfill their duties as defined in their job descriptions, as necessary to educate the student population served and with specific reference to areas of need identified in the annual plan.

b) As appropriate to the student population served, each provider shall provide specific training to all personnel, including, but not limited to, the following:

1) The policy and procedures regarding the maintenance of student privacy and dignity;

2) Disposal of hazardous waste materials;

3) Procedures for preventing the transmission of blood-borne pathogens;

4) The use of isolated time out or physical restraint, if any, subject to the requirements of 23 Ill. Adm. Code 1.280 (Discipline) and 1.285 (Requirements for the Use of Isolated Time Out and Physical Restraint);

5) Behavioral intervention strategies; and

6) The administration of medication.

c) Each provider shall provide training to all paraprofessionals and individual student aides (noninstructional duties) before they assume their duties.

d) Each provider shall maintain accurate, written and dated records of all training provided, as described in Section 401.260.

(Source: Amended at 42 Ill. Reg. 6471, effective March 21, 2018)

Section 401.260 Staff Records

a) A separate, current record shall be maintained for each staff member employed either full-time or part-time who provides direct services or who is directly involved in the development and implementation of instructional and related services for students enrolled under Section 14-7.02 of the School Code.

1) All staff files shall be located at the school for inspection by representatives of the State Board of Education and placing public school districts and shall include the following:

A) Individual job descriptions that reflect the duties to be performed and the qualifications required and that are updated as this information changes;

B) Reports of initial physical examinations, records indicating freedom from tuberculosis for staff working with preschool aged students, evidence of compliance with 29 CFR 1910.1030 (July 1, 2016), and reports of subsequent medical examinations as may be required by the facility;

C) Copies of high school, college, or university transcripts indicating graduation, degrees, or special training or education completed, and/or copies of state certificates, approvals, licenses, or registrations, as applicable to the individual staff member and position;

D) Copies of the following:

i) The results of fingerprint-based criminal history records checks performed pursuant to the Uniform Conviction Information Act [20 ILCS 2635] or, for a facility located in another state, pursuant to that state's uniform conviction information act, and pursuant to the Adam Walsh Child Protection and Safety Act of 2006 (42 USC 16911 et seq.); and

ii) The results of checks of the Statewide Sex Offender Database maintained in accordance with Section 115 of the Sex Offender Community Notification Law [730 ILCS 152] or, for a facility located in another state, checks of that state's sex offender database, if available, or a similar system;

E) The results of checks of the Illinois Murderer and Violent Offender Against Youth Registry or the comparable registry for a facility located out of state.

2) Records of the transmission for each employee completing the criminal background investigation process will be submitted to each placing public school district currently contracting with the provider and those reports can be reviewed at the facility.

b) Responsible staff at each facility shall maintain a separate file containing a record of all inservice training. This file shall be available for inspection and shall include at least the following:

1) Records of initial orientation and training for new staff members, showing that each received training appropriate to the position held at the site;

2) The agenda of each formal staff training session conducted at the facility, showing the dates and amount of time used;

3) Records of seminars, conferences, lectures, and other training events attended by staff members off the facility's premises;

4) Records of ongoing training offered as a part of the assignment of professional support personnel; and

5) The signatures of the staff members who attended each session or event referred to in subsections (b)(1) through (4).

c) The training file referred to in subsection (b) may also contain such similar records as may be required by other state or federal agencies.

(Source: Amended at 42 Ill. Reg. 6471, effective March 21, 2018)

Section 401.270 Student Records

a) A separate student record file shall be maintained for each student served under Section 14-7.02 of the School Code. Files shall be maintained in a secured central location on the premises of the facility. Each student's file shall contain the information listed in this subsection (a), or the information shall be made readily accessible for inspection.

1) Documentation of the date of the student's most recent enrollment in the program in question under Section 14-7.02 of the School Code.

2) Copies of the most recent reports that address the domains covered in the student's most recent evaluation, documentation of the IEP Team's determination of the domains that would be included (see 23 Ill. Adm. Code 226.75 (Definitions) and 226.110 (Evaluation Procedures)), and a copy of the most recent eligibility determination.

3) Evidence of compliance with 23 Ill. Adm. Code 226.330(d).

4) The student's current IEP developed for the placement in accordance with 23 Ill. Adm. Code 226, Subpart C (The Individualized Education Program (IEP)).

5) Reports of review procedures conducted with respect to the student's progress as specified in Section 401.230(b), including copies of all progress reports provided to parents and the placing public school district.

b) All material in the student record file shall be signed as required, dated, and placed in chronological order for the purpose of inspection and evaluation by representatives of the State Board of Education and the public school district of the student's residence.

c) The record of a student enrolled in a program at a facility subject to this Part pursuant to Section 14-7.02 of the School Code shall be the property of the student's public school district of residence and shall be subject to the policies and procedures established by that public school district to govern school student records and to the provisions of the Illinois School Student Records Act [105 ILCS 10] regarding confidentiality of those records.

d) When a student is no longer served in a facility under this Part for any reason, and regardless of any monetary amount due to the provider from the public school district that placed the student, all the student's records shall be returned or provided to the district within 20 business days, and staff of the facility shall

maintain a record of having returned them. The records to be returned include, but are not limited to the following:

1) The temporary public school records that were provided by the district at the time of the student's placement.

2) Other records of an academic or instructional nature that have accumulated during the student's enrollment at the nonpublic facility, including the following:

   A) Records of behavior management plans; and

   B) Records of all psychological and social work and any therapeutic tests related to goals and objectives included in the student's IEP.

3) A transcript of any academic credits earned while the student was served at the facility.

4) Records of the student's attendance while served at the facility.

(Source: Amended at 42 Ill. Reg. 6471, effective March 21, 2018)

Section 401.280 Fiscal Provisions

a) Tuition charged to a public school district by a provider for the term specified in an individual student's State Board of Education 19-83 Nonpublic Facility Placement Contract shall not exceed the allowable costs approved pursuant to 89 Ill. Adm. Code 900 (Illinois Purchased Care Review Board).

b) A status of "Nonapproved" shall be assigned to any program whose provider has not accepted the rate set by the Illinois Purchased Care Review Board pursuant to 89 Ill. Adm. Code 900 60 days after Illinois Purchased Care Review approval of the rates or within 60 days after SBE approval of the application, whichever occurs later.

c) The tuition charge for all students with disabilities who, pursuant to the IEP, are served in a facility less than full-time shall be prorated according to the percentage of the time the students are actually served in the program.

d) For placements on and after July 1, 2019, providers shall not engage in the following conduct:

    1) Pre-bill public school districts;

    2) Bill public school districts for services before those services have actually been provided; and

    3) Charge parents for special education and related services as outlined in the IEP, or room and board.

e) A provider shall not be prohibited from contracting with any local public school district for individual student services, transportation, diagnosis and evaluation, or other services that have not yet been included in the determination of allowable costs set by the Illinois Purchased Care Review Board.

    1) Contracts for any services shall be separate from individual placement agreements.

    2) All costs and revenues resulting from contracts shall be included in the facility's rate calculations under Section 14-7.02 of the School Code.

(Source: Amended at 42 Ill. Reg. 6471, effective March 21, 2018)