

TITLE 23: EDUCATION AND CULTURAL RESOURCES  
SUBTITLE A: EDUCATION  
CHAPTER I: STATE BOARD OF EDUCATION  
SUBCHAPTER 1: NONPUBLIC ELEMENTARY AND SECONDARY SCHOOLS

PART 405  
PAYMENTS TO CERTAIN FACILITIES UNDER SECTION 14-7.05 OF THE SCHOOL  
CODE

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AUTHORITY: Implementing Section 14-7.05 of the School Code [105 ILCS 5/14-7.05] and authorized by Section 2-3.6 of the School Code [105 ILCS 5/2-3.6].

SOURCE: Adopted at 33 Ill. Reg. 11627, effective July 22, 2009; amended at 37 Ill. Reg. 8134, effective June 6, 2013; amended at 39 Ill. Reg. 13498, effective September 24, 2015; amended at 45 Ill. Reg. 14976, effective November 10, 2021.

**Section 405.10 Purpose and Applicability**

This Part applies to the obligation of school districts to pay the cost of educating students who are served, pursuant to Section 14-7.05 of the School Code [105 ILCS 5/14-7.05], in residential facilities providing educational programs that are not approved by the State Board of Education. This Part shall not apply to districts' payment for educational services in programs approved under the rules of the State Board of Education for Special Education Facilities Under Section 14-7.02 of the School Code (23 Ill. Adm. Code 401), to districts' payment for educational services provided by other school districts (see 23 Ill. Adm. Code 130, Determining Special Education Per Capita Tuition Charge), or to districts' payment for educational services provided on their behalf by contractual agents. The purposes of this Part are:

- a) to establish procedures and timelines for providers' presentation of the required proof as a prerequisite to districts' payment of the cost of educating affected students;
- b) to identify the proof that will be considered as adequate evidence of programs' conformance with the requirements identified in Section 14-7.05 of the School Code; and
- c) to establish a uniform basis for the calculation of the costs for which districts will be responsible under Section 14-7.05 of the School Code.

**Section 405.20 Definitions**

“Affected Student”: For purposes of this Part, *an individual with a disability*, as defined in Sections 14-1.02 and 14-1.03a of the School Code [105 ILCS 5/14-1.02 and 14-1.03a], *whose placement in a residential facility has been made or paid for by an Illinois public State agency or made by any court in Illinois* (Section 14-7.05 of the School Code), when the educational program provided to the student has not been approved pursuant to 23 Ill. Adm. Code 401 (Special Education Facilities Under Section 14-7.02 of the School Code).

“Facility”: Physical premises where a provider offers services.

"Program": A set of educational services, residential services, or both that is designed to serve students who have similar educational needs. An “educational program” is one that consists of instruction, supportive services, supplies, materials, adjustments to the physical plant, and activities intended to lead to students’ attainment of the annual goals and short-term objectives set forth in their Individualized Education Programs (IEPs).

“Provider”: An organization not approved under Section 14-7.02 of the School Code and 23 Ill. Adm. Code 401 that offers special educational services to students with disabilities pursuant to Section 14-7.05 of the School Code.

**Section 405.30 Procedural Requirements**

- a) In addition to providing notice to the district of residence as required by Section 14-7.05 of the School Code, and no later than 15 days after a provider is notified of the placement of an affected student and wishes to receive payment from the student's district of residence for the cost of educating that student, the provider shall furnish to the State Superintendent of Education, using a method and format specified by the State Superintendent, as much of the following information as may be available to the provider:
- 1) the affected student's full name and date of birth;
  - 2) contact information for the student's parent or guardian;
  - 3) the placing authority;
  - 4) the effective date of the placement and the date on which educational services began or will begin, as applicable;
  - 5) the ending date of the placement, if any has been established;
  - 6) the unique identifying number assigned to the student by the Student Information System (see 23 Ill. Adm. Code 1.75);
  - 7) the student's district of residence; and
  - 8) the provider's calendar for the educational program for the school year in which the placement occurs.
- b) No later than 15 days after an affected student's placement into an educational program, the provider shall submit the documentation and information required under Section 405.40 of this Part to the State Superintendent of Education, using a method and format specified by the State Superintendent. However, when an affected student's placement occurs during the month of June, the provider will only be able to preserve the right to payment by the district of residence by submitting the required documentation and information quickly enough to leave time for the district to make payment out of funds available for the fiscal year ending June 30.
- c) The State Superintendent or designee shall review the materials submitted pursuant to subsection (b) of this Section and, within ten business days, notify the provider either:

- 1) that satisfactory proof has been furnished as required by Section 14-7.05 of the School Code; or
  - 2) that the materials submitted do not constitute satisfactory proof in one or more specified respects and the nature of the deficiency.
- d) A provider receiving notice of insufficient proof may submit additional documentation related to the identified areas of deficiency, provided that additional submissions received after June 30 following the end of the school year in which the placement occurred shall not be considered and a student's district of residence shall not be obligated to pay the costs of educating the student for that school year.
- e) The State Superintendent shall provide copies of all notifications to providers under this Section to the districts of residence of the affected students. *A school district is under no obligation to pay the residential facility unless and until proof is provided to the State Board's satisfaction* (Section 14-7.05 of the School Code). A school district is under no obligation to pay the residential facility for services rendered prior to the date the facility was notified that satisfactory proof of approval was furnished.
- f) The decision of the State Superintendent as to the obligation of a school district to make payments pursuant to this Part shall be final, subject to the provisions of the Administrative Review Law [735 ILCS 5/Art. III].
- g) Nothing in this Part shall be construed as alleviating the responsibility of any student's district of residence for the development of that student's IEP in accordance with the requirements of 23 Ill. Adm. Code 226.220 and 226.230, or as conferring responsibility for the IEP on any other entity.

(Source: Amended at 45 Ill. Reg. 14976, effective November 10, 2021)

**Section 405.40 Satisfactory Proof**

All information called for in this Section shall be submitted no later than 15 days after an affected student's placement, using the method and format prescribed by the State Superintendent of Education.

- a) As satisfactory proof of *appropriate licensure of teachers for the student population* (Section 14-7.05 of the School Code) in a given program, the provider of the program shall submit:
  - 1) a description of the program, including the characteristics of the students for whom it is intended and the number of students served;
  - 2) a listing of the names and license numbers of all licensed teachers assigned to the program, demonstrating that each general education teacher who serves the affected student holds the qualifications required pursuant to Subpart G of the rules of the State Board of Education for Public Schools Evaluation, Recognition and Supervision (23 Ill. Adm. Code 1) and that each individual who provides special education to the affected student holds:
    - A) a professional educator license endorsed in accordance with 23 Ill. Adm. Code 25 (Educator Licensure) appropriate for the population to be served; or
    - B) a professional educator license endorsed in another teaching field that is valid for the grade range of the students served and bears an endorsement or approval for the population served, in accordance with 23 Ill. Adm. Code 25; or
    - C) until June 30, 2023, a short-term emergency approval in special education issued in accordance with 23 Ill. Adm. Code 25.48 (Short-term Emergency Approval in Special Education); or
    - D) the specific qualifications comparable to those issued in Illinois in connection with the position in question, if the facility is located outside Illinois.
- b) As satisfactory proof that a program offers *an age-appropriate curriculum* (Section 14-7.05 of the School Code), the provider shall submit information demonstrating that:

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- 1) the program is based upon evaluation of the participating students' current levels of academic achievement and performance and is designed to afford the students access to the general curriculum in the fundamental areas of learning identified in Section 27-1 of the School Code [105 ILCS 5/27-1] at levels that will promote their attainment of the Illinois Learning Standards (see 23 Ill. Adm. Code 1, Appendix D);
  - 2) academic assessments administered to affected students are the same as those administered to other individuals served in the program who are of approximately the same age;
  - 3) the age range of the pupils grouped in any class does not exceed four years (if at the elementary level) or six years (if at the secondary level); and
  - 4) the program is delivered in an age-appropriate setting.
- c) The provider shall submit a description of the method used for recording attendance on a daily basis, as well as information on enrollment in the program for which payment is being sought and information on the attendance of each affected student.
- 1) Enrollment information shall include:
    - A) the total number of individuals receiving educational services in or through the facility;
    - B) a description of how individuals are grouped (e.g., by grade level or age);
    - C) identification of the grouping or "program" in which the affected student is being served; and
    - D) the number of individuals served in each grouping described.
  - 2) Attendance information shall include:
    - A) a signed assurance indicating that the provider will keep daily attendance records with respect to the affected student and will submit those records to the district of residence of the affected student in accordance with the requirements of Section 405.50 of this Part; and

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- B) a record reflecting the student's attendance during the first 10 days of service.
- d) As satisfactory proof of the provider's ability to implement a particular student's IEP, the provider shall submit:
- 1) a copy of the student's current or most recent available IEP;
  - 2) a list of all teachers and other professional service providers that also:
    - A) indicates the specific portions of the IEP that each will be responsible for fulfilling; and
    - B) identifies the certificate, license, or other credential held by each professional other than a teacher that qualifies the individual to provide the professional services in question;
  - 3) if a paraprofessional educator will be assigned to assist in any class attended by the student, an assurance that the assignment of the individual will conform to the requirements of 23 Ill. Adm. Code 1.630(b); and
  - 4) for any teacher or professional not directly employed by the provider, information regarding the individual's contractual status that will clarify the amount of time for which the individual is available for the program, and the number of students whom the individual is responsible for serving during that time, and the total amount of service time required with respect to those students.

(Source: Amended at 45 Ill. Reg. 14976, effective November 10, 2021)



**Section 405.50 Quarterly Attendance Reports**

The provider serving a student shall, no later than five business days after the conclusion of each quarter of the school year, submit to the district of residence of the affected student a record reflecting the attendance of the affected student during that quarter. A district shall have no obligation to pay a provider for educational services performed during any period of time until the student's attendance has been reported as required.

(Source: Amended at 45 Ill. Reg. 14976, effective November 10, 2021)

**Section 405.60 Calculation of Costs**

The provider of an educational program not approved by the State Board of Education under its rules at 23 Ill. Adm. Code 401 shall not be required to seek approval for the program. In order to receive payment from a student's district of residence, however, the provider shall be required to submit information to the Illinois Purchased Care Review Board (IPCRB), in a format specified by the IPCRB, so that a rate can be established for the program using the method described in the IPCRB's rules at 89 Ill. Adm. Code 900 (Illinois Purchased Care Review Board). The "*costs of educating the child*" (Section 14-7.05 of the School Code) that must be paid by the district of residence of a student under this Part shall be determined on the basis of the daily rate set for the respective educational program by the IPCRB and the number of days for which the student is enrolled. The State Superintendent shall inform the district of residence of the rate as soon as it has been set.

**Section 405.70 Termination of Placement**

The provider of an educational program into which an affected student is placed shall notify the State Superintendent of Education and the district of residence of the affected student no later than 10 days after receiving information as to the date on which the student's placement will be terminated.

(Source: Amended at 45 Ill. Reg. 14976, effective November 10, 2021)