

**ILLINOIS STATE BOARD OF EDUCATION**

**Ad Hoc Rules Committee of the Whole**

Meeting Location: Chicago High School for Agricultural Sciences  
3857 W. 111<sup>th</sup> Street  
Chicago, Illinois

**Thursday, January 17, 2008  
8:30 a.m.**

**Public Conference Call Number: 1-866-297-6391** (*listen only*)  
**Confirmation #: 2 0 2 6 1 2 1 9**

**AGENDA**

1. Roll Call
2. Board Member Participation by Other Means
3. Public Participation
4. Minutes of the December Ad Hoc Rules Committee Meeting (**pp. 2-3**)
- \*5. Rules for Initial Review
  - a. Part 60 (The "Grow Your Own" Teacher Education Initiative) (*Linda Jamali*) (**pp. 4-14**)
  - b. Part 575 (School Technology Program) (*Marica Cullen*) (**pp. 15-19**)
- \*6. Rules for Adoption
  - a. Part 25 (Certification) (*Linda Jamali & Patrick Murphy*) (**pp. 20-48**)
  - b. Part 675 (Providers of Supplemental Education Services) (*Randy Niles*) (**pp. 49-87**)
7. Information Item/Discussion Item
  - a. School Comparison of School Food Service Rules Part 305 and the proposed revisions (*Chris Schmitt, Mark Haller*) (**pp. 88-100**)
8. Committee Agenda Planning/Additional Items
9. Adjourn

\* Items listed with an asterisk (\*) will be discussed in committee and action may be taken in the plenary session.

## **Ad Hoc Rules Committee of the Whole**

**Thursday, December 13, 2007**

**8:15 a.m.**

State Board of Education Office  
100 North First Street  
Springfield, Illinois

### **Committee Members Present**

Jesse Ruiz  
Andrea Brown  
Dean Clark  
David Fields  
Vinni Hall  
Brenda Holmes  
Joyce Karon  
Chris Ward

### **Absent**

### **Others**

Chris Koch  
Darren Reisberg  
Deb Vespa  
Sharryon Dunbar  
Sally Vogl

**Chairman Ruiz called the meeting to order at 8:20 a.m. and noted that no members were participating by other means. It was determined that no one had signed up for public participation.**

4. **APPROVAL OF MINUTES:** Dean Clark moved approval of the minutes of the November 15, 2007, meeting and David Fields seconded the motion. It was adopted unanimously and the minutes were approved as presented.
5. **RULES FOR INITIAL REVIEW:** The Chairman noted that amendments were being presented to Parts 151 and 375 and turned the discussion over to General Counsel Darren Reisberg.

### **PART 151 (School Construction Program)**

Mr. Reisberg briefly introduced the amendment being presented and indicated that Division Administrator Deb Vespa was available to answer any questions Board members might have. Ms. Vespa explained that the amendment was being made to incorporate a reference to new statutory requirements regarding "green" buildings. As such it was straightforward, and there were no questions related to the rule.

Ms. Vespa noted for Board members' information that ISBE staff had worked with representatives of the Capital Development Board (CDB) on this matter and that CDB was developing the rules that would actually implement the statute. There would be three options by which districts could comply, and ISBE would be communicating with schools as soon as the language about those was available. The present amendment was being initiated to let school personnel know the requirements would apply to their projects.

Chairman Ruiz asked if these requirements related to "LEAD" certification, and Ms. Vespa replied that they were the same thing. In response to a question from Chris Ward, she clarified that new requirements related to equipment and cleaning supplies were covered under separate legislation. A guidebook was being prepared to cover these subjects. David Fields inquired about the potential impact on districts' finances. Ms. Vespa stated that compliance might cost approximately \$20,000 according to CDB but that this amount would be included in the grant agreement for each construction project.

### **PART 375 (Student Records)**

Darren Reisberg provided an overview for the Board members of the new legislation related to biometric information and noted that this kind of information is often used in school food service

lines to charge students for meals. Parents had raised questions about what would happen to this information, resulting in a legislative proposal by Senator Del Valle to protect it. That, in turn, had led to the need to update the rules for student records to incorporate the new provisions.

Mr. Reisberg indicated that a further provision had been identified to be updated so that it would match a requirement stated in the rules for Transitional Bilingual Education (Part 228). Those rules had recently been amended to require that each student's temporary record include the completed home language survey, so that the definition of "student temporary record" found in Part 375 needed to be revised accordingly.

Discussion ensued regarding several related points, including the appropriate placement of scores from the various state assessments and the limitations on access to students' records. Mr. Reisberg noted that the confidentiality of students' records is taken very seriously by the agency. Board members discussed the possibility of making students' records accessible to personnel in higher education. Joyce Karon clarified that discussion at the last meeting of the Illinois Board of Higher Education had focused on remediation of academic deficits and questions as to whether information from schools could be shared for that purpose. It was noted that a shared database of university students exists, and the possibility of an interface with the Student Information System is being explored. Mr. Reisberg also noted the U.S. Department of Education had issued guidance regarding the appropriateness of sharing student information following the incident at Virginia Tech.

Ms. Karon also mentioned that a concern had been expressed for students with special needs who may not be identified at the higher education level and thus may miss out on available services. Andrea Brown asked whether ISBE is able to track the number of "hits" on various portions of the web site and noted such information might enable staff to have greater understanding of how well ISBE is communicating on a variety of subjects.

**6. RULES FOR ADOPTION  
PART 232 (Summer Bridges Program)**

Darren Reisberg stated that the amendments to Part 232 had undergone initial review in September and there had been no public comment. Sharryon Dunbar was available in case Board members had any questions. There were none.




Chairman Ruiz noted that action would be taken on all these sets of rules during the upcoming plenary session.

**7. COMMITTEE AGENDA PLANNING/ADDITIONAL ITEMS:** Darren Reisberg indicated that the rulemaking items to be brought forward for initial review at the January 2008 meeting could include amendments to Part 60 (The "Grow Your Own" Teacher Education Initiative) and Part 252 (Driver Education) and that the possibility of amendments to Part 305 (School Food Service) might be further discussed. Amendments to Parts 25 and 675 (Providers of Supplemental Educational Services) would be ready for adoption at that time also. It was agreed that a Thursday morning committee meeting would provide sufficient time for the consideration of these items.

**8. ADJOURNMENT:** Vinni Hall moved that the meeting be adjourned. David Fields seconded the motion, and the meeting was adjourned at 8:40 a.m.

**ILLINOIS STATE BOARD OF EDUCATION MEETING**  
**January 16-17, 2008**

**TO:** Illinois State Board of Education

**FROM:** Christopher A. Koch, Ed.D., State Superintendent   
Darren Reisberg, General Counsel   
Linda Tomlinson, Assistant Superintendent 

**Agenda Topic:** Action Item: Rules for Initial Review – Amendments to Part 60  
(The “Grow Your Own” Teacher Education Initiative)

**Materials:** Recommended Rules

**Staff Contact(s):** Linda Jamali

**Purpose of Agenda Item**

The purpose this agenda item is to present the proposed amendments for the Board’s initial review.

**Expected Outcomes of Agenda Item**

The Board will be asked to adopt a motion authorizing solicitation of public comment on the proposed amendments to Part 60.

**Background Information**

This rulemaking responds to P.A. 95-476, which changed several existing statutory provisions in response to concerns expressed by institutions of higher education and other participants in the “Grow Your Own” program. The most important one of these that affects the rules is found in Section 25 of the Act, which allows waivers and deferrals of the obligation to repay the loans candidates receive to assist them in completing this program. The statute previously called for each such request to come from a program, rather than from the affected individual. However, many of the circumstances that could cause a need for someone’s loan payments to be waived or deferred might not occur until years after the individual had left the program. There might no longer be any contact with members of the consortium, and thus there would be no way for representatives of the program to vouch for the person’s circumstances. The law has been changed to eliminate this problem, enabling us to change Section 60.100(f)(5) accordingly.

A definition of “eligible school” was added to the statute, to mean one that is hard to staff and also serves a substantial percentage of low-income students. Further, the definition of “hard-to-staff school” was changed to match the definition used in the rules, which relied on information available to ISBE. These provisions now match the approach that had already been taken in the rules, and the changes permit us to delete some language in favor of brief cross-references. These changes are not substantive in nature.

Several other straightforward technical wording changes are also being made.

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

Policy Implications: Please see above.

Budget Implications: None.

Legislative Action: None needed.

Communication: Please see "Next Steps" below.

**Superintendent's Recommendation**

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

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

The "Grow Your Own" Teacher Education Initiative (23 Illinois Administrative Code 60),

including publication of the proposed amendments in the Illinois Register.

**Next Steps**

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

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STATE BOARD OF EDUCATION

NOTICE OF PROPOSED AMENDMENTS

TITLE 23: EDUCATION AND CULTURAL RESOURCES

SUBTITLE A: EDUCATION

CHAPTER I: STATE BOARD OF EDUCATION

SUBCHAPTER b: PERSONNEL

PART 60

THE “GROW YOUR OWN” TEACHER EDUCATION INITIATIVE

Section

60.10	Purpose
60.20	Definitions
60.30	Eligible Applicants
60.40	Implementation Grants –Procedure and Content of Proposals
60.50	Implementation Grants – Criteria for the Review of Proposals
60.60	Implementation Grants – Allocation of Funds
60.70	Continuation of Implementation Funding
60.80	Implementation Funding for “Transitional Projects” (Repealed)
60.90	Planning Grants
60.100	Loans; Waiver or Deferral of Repayment

AUTHORITY: Implementing the Grow Your Own Teacher Education Act [110 ILCS 48] and authorized by Section 90 of the Act [110 ILCS 48/90].

SOURCE: Adopted at 30 Ill. Reg. 1850, effective January 24, 2006; amended at 31 Ill. Reg. 3589, effective February 15, 2007; amended at 32 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.

**Section 60.20 Definitions**

“Act” means the Grow Your Own Teacher Education Act [110 ILCS 48].

“Applicant” means a consortium or a potential consortium, as applicable, as described in Section 60.30 of this Part.

“Candidate” means a person working toward a bachelor’s degree qualifying that individual for a teaching certificate who is assisted under a grant awarded to a consortium pursuant to this Part.

“Cohort” means a group of candidates ~~students~~ preparing for a teaching certificate who, pursuant to Sections 20 and 25 of the Act, begin receiving assistance under this Part

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together. No member of any cohort may hold a bachelor's degree at the time of entry into the program, provided that this restriction shall not apply to members of cohorts for whose preparation funding was granted during Fiscal Year 2006.

"Consortium" means an entity to which the State Board can issue grants under this Part. A consortium shall be composed of at least one 4-year institution of higher education with an accredited teacher education program, at least one school district or group of schools, and one or more community organizations. The consortium may also include a 2-year institution of higher education and/or a school employee union. Eligible consortia are further defined in Section 20 of the Act. A consortium shall implement a program of forgivable loans to cover any portion of tuition and direct expenses of students preparing for teaching certificates in excess of grants-in-aid and other forgivable loans received.

"Direct expenses" are an individual's tuition for coursework required for completion of the preparation program in which the candidate is or will be enrolled, fees related to participation in the preparation program or required coursework, and expenses for books and other necessary instructional materials.

"Eligible school" is *an Illinois public elementary or secondary school that serves a substantial percentage of low-income students and either is hard to staff or has hard-to-staff teaching positions (see Section 10 of the Act).*

~~"Hard to staff school" is an Illinois public school serving a substantial percentage of low-income students that ranks in the upper third among public schools of its type (e.g., elementary, middle, secondary) in terms of the rate of attrition among teachers.~~

~~"Hard to staff teaching position" is any position, in a school serving a substantial percentage of low income students, that is experiencing substantial teacher shortage or critical local need as discussed in Section 10 of the Act.~~

"Institution" means an institution of higher education.

"Potential consortium" is a group of entities that is eligible to submit a proposal for a planning grant in response to an RFP issued under this Part.

"Student with a non-traditional background" is either one who begins a baccalaureate program at a point in time other than immediately following graduation from high school or one who began a baccalaureate program after high school, did not complete it, and re-enters a baccalaureate program after some passage of time.

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“Year of service” means full-time employment for at least half a school year, or an equivalent amount of part-time employment, in:

a public school that, at the time the individual becomes employed, is either one of the schools targeted by the program completed by the individual with assistance under this Part or another school that is defined as hard to staff pursuant to this Section; or

a teaching position that, at the time the individual becomes employed, is hard to staff as defined in this Section.

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

**Section 60.50 Implementation Grants – Criteria for the Review of Proposals**

Proposals for implementation grants shall be evaluated in accordance with the following criteria:

- a) Feasibility, Impact, and Cost-Effectiveness (40 points)
  - 1) The proposal identifies a need for teachers in hard-to-staff schools and hard-to-fill positions and describes either a cohort that is available to enroll in the identified preparation program or time-specific plans for identifying and attracting the members of such a cohort.
  - 2) The proposal describes strategies that will be used to reach members of underrepresented groups that reflect the diversity of the students enrolled in the participating ~~targeted~~ schools and outlines plans for serving additional cohorts in future years.
  - 3) The proposal demonstrates that:
    - A) coursework and experiences required for certification will be scheduled and located to be accessible to members of the cohort; and
    - B) supportive services (e.g., child care, counseling, tutoring) that have been identified as necessary will be offered to enable candidates to progress through the program and attain certification.



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- 4) The proposal establishes a timetable or performance level for candidates as a condition for their continued receipt of assistance under this program.
  - 5) The evaluation plan is designed to yield information that can be used both in judging the program's qualitative and quantitative impact and in identifying changes or new approaches that will improve the program's outcomes.
  - 6) The proposal describes commitments on the part of all the consortium's members that will enable the consortium to sustain the program over time with a reduction in the need for external resources.
- b) Quality of the Plan (30 points)
- 1) The proposal describes the role of each entity that is a member of the consortium, including the resources each entity will devote to this initiative, the major areas requiring collaboration among the members, and how decisions will be made with input from the members and the participants.
  - 2) The proposal includes plans for assisting candidates in tapping sources of financial aid beyond those made available under this Part and by the members of the consortium.
  - 3) The proposal demonstrates that the institution of higher education has the capacity (i.e., faculty and other resources) to serve the cohort in its approved teacher preparation program. If a two-year institution is involved in the consortium, the proposal delineates how coursework, other requirements, and services will be coordinated between the institutions.
  - 4) The proposal describes the needs of the participating ~~targeted~~ schools and demonstrates that the consortium's plan for certification under the program is relevant to those needs and will have an impact on the availability of qualified staff.
  - 5) The plan of work for the program includes specific strategies for overcoming known barriers faced by the participating ~~targeted~~ schools in

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retaining qualified teachers as well as barriers faced by the individuals who make up the cohort to be enrolled in the program.

- 6) The proposal describes the consortium's plans for extending support to candidates for at least two years after they attain certification, including such activities and services as mentoring and group meetings of the cohort.
- c) Experience and Qualifications (20 points)
- 1) The proposal provides evidence that faculty and relevant staff of the institution are knowledgeable regarding the needs of hard-to-staff schools and the specific issues that candidates from non-traditional backgrounds encounter when attempting to complete preparation for teaching careers.
  - 2) The proposal demonstrates that the community organization that is a member of the consortium has conducted projects or initiatives with a specific focus on involving parents and others in school improvement, either in the participating ~~targeted~~ schools or schools with similar characteristics, and has the capacity to recruit candidates for and support them as they progress through the program.
  - 3) The individual who is identified as coordinator for the cohort has experience in education and/or community organizing and in supporting individuals in the collegiate environment and is knowledgeable about group dynamics, support services, and cultural issues relevant to the cohort.
- d) Evaluation Plans (10 points)
- 1) The proposal relates plans for the evaluation of candidates' teaching skills to the relevant portions of the institution's educational unit assessment system (see 23 Ill. Adm. Code 25.140) and demonstrates that candidates in the program will be expected to meet the standards applicable to the approved program.
  - 2) The proposal includes a plan for the evaluation of the program by or on behalf of the members of the consortium that will provide:

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- A) information on the progress of candidates within the preparation program; and
- B) when applicable, information on this initiative's outcomes in terms of candidates' placement into hard-to-staff teaching positions or hard-to-staff schools and their retention in those positions.

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

**Section 60.100 Loans; Waiver or Deferral of Repayment**

Any candidate in a program administered under this Part may receive a forgivable loan for direct expenses associated with completion of the teacher preparation program, provided those expenditures are not otherwise paid for through grants-in-aid, other forgivable loans, or other resources of the consortium. Any amount expended for an individual's direct expenses shall be considered a part of that individual's loan, regardless of how the payment is administered and regardless of whether the individual receives any actual payment of funds. The total amount of any candidate's loan shall not exceed \$25,000.

- a) Pursuant to Section 25 of the Act, *loan funds provided to candidates as part of this program shall be fully forgiven if a graduate completes five years of service in hard-to-staff schools or hard-to-staff teaching positions, with partial forgiveness for shorter periods of service.* Forgiveness and repayment of loans shall be determined as provided in this Section.
- b) An individual may accrue the service required for forgiveness of loans under this Part in one or more eligible ~~hard-to-staff~~ schools or positions.
- c) If an individual has not assumed employment in an eligible ~~a hard-to-staff~~ school or position within two years after receiving a teaching certificate, the individual shall be required to begin the repayment of amounts loaned under this Part. No interest shall apply. An individual who drops out of the program shall be required to begin repaying the amounts loaned in the month following the month when it becomes evident that he or she will not be completing any of the program's requirements for two consecutive semesters.
- d) If an individual has not completed five years of service within 10 years after receiving a teaching certificate, the individual shall be required to begin the repayment of amounts loaned under this Part. The amount due shall be the total

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amount borrowed, less a percentage reflecting the relationship that any time taught by the individual in ~~eligible hard-to-staff~~ schools or positions bears to the total five-year commitment. Loan amounts shall be reduced in increments of 10 percent for each semester completed.

- e) Repayment of loans shall be made in no more than 60 equal installments. The minimum monthly payment will be determined by dividing the total amount due by 60. An individual may prepay the balance due on the loan in its entirety at any time or make payments in addition to the minimum amount owed each month without penalty.
- f) In addition to the loan forgiveness permitted under Section 25 of the Act, the State Superintendent may defer or waive an individual's obligation to repay an amount due as provided in this subsection (f).
  - 1) The State Superintendent shall waive the repayment obligation for an individual who is counseled out of a preparation program or found ineligible to continue, provided that the individual's exit from the program is not due to a violation of law or of applicable institutional policies.
  - 2) The State Superintendent shall waive the repayment obligation for an individual who drops out of a preparation program or demonstrates that he or she is unable to complete a portion of the required teaching service due to:
    - A) the onset or exacerbation of a disability;
    - B) the need to care for an immediate family member during serious illness or disability;
    - C) destruction of the individual's residence; or
    - D) other circumstances that require the individual to assume responsibilities that cannot be avoided without serious financial hardship or other family disruption (e.g., death of a spouse that results in the need to take a second job or assume operation of a business).

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- 3) The State Superintendent shall waive the repayment obligation for a candidate who does not complete a preparation program due to the unavailability of a State appropriation for this initiative for at least two consecutive years.
- 4) The State Superintendent shall defer the repayment obligation for a period of time specifically related to the circumstances when an individual:
  - A) is unemployed or is working for fewer than 30 hours per week;
  - B) is experiencing a financial hardship (e.g., receiving public assistance, earning an amount per month that is no greater than 200 percent of the amount of the loan payment, or experiencing circumstances such as those outlined in subsection (f)(2) of this Section); or
  - C) has re-enrolled as a full-time student in an institution of higher education or in a program under this Part.
- 5) Each request for a waiver or deferral of repayment shall be submitted in ~~by a representative of the consortium under whose auspices the individual is or was enrolled in teacher preparation.~~ Using a format specified by the State Superintendent. The ~~the representative and the~~ affected individual shall describe the specific circumstances that apply. This description shall be accompanied by evidence such as a physician's statement, insurance claim, or other documentation of the relevant facts.
- g) When a teaching certificate is issued to an individual who received assistance under this Part, the certificate shall be accompanied by:
  - 1) a statement indicating the total amount of the loan received by the individual and identifying the dates applicable to repayment under this Section; and
  - 2) a claim form that the individual may use to claim forgiveness of the loan amount, which shall require the individual to identify the periods of service completed in eligible ~~hard-to-staff~~ schools or positions and the school administrators who can verify the individual's service.

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

h) Management of Loans

- 1) It shall be the responsibility of each four-year institution of higher education, and of any two-year institution that participates in a consortium, to assist the State Board of Education with the forgivable loan process in the following manner:
    - A) by keeping records of the amounts provided to or on behalf of each individual for direct expenses;
    - B) by keeping up-to-date contact information regarding the address and telephone number of each individual during the individual's preparation at that institution; and
    - C) by notifying the State Superintendent within 30 days after a candidate fails to enroll in coursework as expected or otherwise ceases to participate in the program and informing the State Superintendent of the total amount of the candidate's loan for direct expenses as of that point in time.
  - 2) When a candidate leaves a two-year institution and enters a four-year institution to continue in a program under this Part, the two-year institution shall inform both the State Superintendent and the four-year institution of the total amount of the candidate's loan for direct expenses as of that point in time. Each two-year institution shall ensure that the affected four-year institution continues to receive any information that subsequently affects the amount of a candidate's loan.
  - 3) Each institution shall notify the State Superintendent as to who will be responsible for this information and shall provide contact information for the responsible individual within the institution.
- i) It shall be the responsibility of the State Superintendent to take such actions as may be necessary to secure repayment when necessary.

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

**ILLINOIS STATE BOARD OF EDUCATION MEETING**  
**January 16-17, 2007**

**TO:** Illinois State Board of Education

**FROM:** Christopher A. Koch, Ed.D., State Superintendent of Education   
Connie Wise, Assistant Superintendent   
Darren Reisberg, General Counsel 

**Agenda Topic:** Action Item: Rules for Initial Review – Part 575 (School Technology Program)

**Materials:** Recommended Rules

**Staff Contact:** Marica Cullen, Division Administrator

**Purpose of Agenda Item**

The purpose of this agenda item is to present the proposed amendment to Part 575 for the Board's initial review.

**Expected Outcomes of Agenda Item**

The Board will be asked to adopt a motion authorizing the solicitation of public comment on the proposed amendment.

**Background Information**

The purpose of this rulemaking is to provide explicit permission for districts that participate in the School Technology Revolving Loan Program to make partial early repayments of the amounts borrowed. Section 575.600 already permits these districts to repay the entire amount owed on any of the scheduled payment dates, but it does not currently address the possibility of partial early payments. We believe districts should be able to reduce their debt as soon and as much as is convenient for them, and this new language will provide the basis on which they may do so.

The other revisions included are being made to distinguish functions of the Board from functions of the State Superintendent and staff.

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

Policy Implications: Please see above.

Budget Implications: None.

Legislative Action: None needed.

Communication: Please see "Next Steps" below.

**Pros and Cons of Various Actions**

These amendments are intended to provide additional flexibility for school districts. Failure to promulgate this rule would continue to limit early repayment to the entire amount owed.

**Superintendent's Recommendation**

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

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

School Technology Program (23 Illinois Administrative Code 575),

including publication of the proposed amendment in the Illinois Register.

**Next Steps**

With the Board's authorization, staff will submit this proposed amendment to the Administrative Code Division for publication in the Illinois Register to elicit public comment. Additional means such as the Superintendent's message and the agency's website will be used to inform interested parties of the opportunity to comment.



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TITLE 23: EDUCATION AND CULTURAL RESOURCES

SUBTITLE A: EDUCATION

CHAPTER I: STATE BOARD OF EDUCATION

SUBCHAPTER 6: MISCELLANEOUS

PART 575

SCHOOL TECHNOLOGY PROGRAM

SUBPART A: SCHOOL TECHNOLOGY GRANTS

Section

575.10	Purpose (Repealed)
575.20	Eligible Expenditures (Repealed)
575.30	Application Procedure and Content (Repealed)
575.40	Matching Requirements (Repealed)
575.50	Proposal Review and Approval (Repealed)
575.60	Terms of the Grant (Repealed)

SUBPART B: SCHOOL TECHNOLOGY REVOLVING LOAN PROGRAM

Section

575.100	Purpose
575.200	Use of Funds
575.300	Maximum Amount of Loan
575.400	Application Procedures
575.500	Review of Application and Notification of Loan Award
575.600	Repayment Procedures
575.700	Terms and Conditions of Loan Agreement

AUTHORITY: Implementing and authorized by Section 2-3.117a of the School Code [105 ILCS 5/2-3.117a].

SOURCE: Adopted at 20 Ill. Reg. 3522, effective February 13, 1996; emergency amendment at 22 Ill. Reg. 9591, effective May 22, 1998, for a maximum of 150 days; amended at 22 Ill. Reg. 19770, effective November 2, 1998; amended at 23 Ill. Reg. 8370, effective July 12, 1999; amended at 25 Ill. Reg. 8167, effective June 21, 2001; amended at 26 Ill. Reg. 915, effective January 15, 2002; amended at 28 Ill. Reg. 13227, effective September 17, 2004; amended at 29

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NOTICE OF PROPOSED AMENDMENT

Ill. Reg. 18474, effective October 31, 2005; amended at 32 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.

SUBPART B: SCHOOL TECHNOLOGY REVOLVING LOAN PROGRAM

**Section 575.600 Repayment Procedures**

Loans shall be repaid within three years (see Section 2-3.117a of the School Code).

- a) The rate of interest shall be stipulated on the loan application and *shall not be greater than 50% of the rate for the most recent date shown in the 20 G.O. Bonds Index of average municipal bond yields as published in the most recent edition of The Bond Buyer, published in New York, New York* (Section 2-3.117a(a) of the School Code). Interest shall be computed semi-annually.
- b) Payments on the loan (principal and interest) shall be made by check twice annually in six equal installments.
  - 1) Loan payments shall be due on December 1 and June 1, with the first payment under each loan due on June 1 of the fiscal year in which the loan is made.
  - 2) Checks shall be made payable to the "ISBE - School Technology Revolving Loan Fund" and mailed to the Fiscal and Administrative Services Division, Illinois State Board of Education, 100 North First Street, W-380, Springfield, Illinois 62777-0001.
  - 3) Payments not received within 15 calendar days after the due date shall be assessed a penalty of 5 percent of the payment due; however, the late payment penalty shall be waived when either:
    - A) the postmark date on the envelope used to submit the payment is dated five days or more before the end of the 15-day grace period; or
    - B) the payment is not received at the State Board's office ~~by the State Board of Education~~ within 60 days following the due date, but the participant provides to the State Superintendent ~~Board~~ of Education no later than 70 days beyond the due date the following:

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- i) a copy of the original check, dated at least five days before the end of the 15-day grace period;
  - ii) a copy of the stop payment order placed on the original check; and
  - iii) a new check issued in the amount due.
- c) A participant may prepay the balance due on the loan in its entirety on any scheduled payment date or at the midpoint between any two scheduled payment dates, provided that the participant first contacts the State Superintendent's designee ~~Board of Education~~ to obtain the total amount of the principal and interest due at that time.
- d) A participant may prepay a portion of the balance due on the loan on any scheduled payment date or at the midpoint between any two scheduled payment dates, provided that the participant first contacts the State Superintendent's designee for instructions. The remaining payments shall be recalculated to account for any early repayment, and the participant shall be notified accordingly.

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

**ILLINOIS STATE BOARD OF EDUCATION MEETING**  
**January 16-17, 2008**

**TO:** Illinois State Board of Education

**FROM:** Christopher A. Koch, Ed.D., State Superintendent of Education CK  
Darren Reisberg, General Counsel X  
Linda Tomlinson, Assistant Superintendent LLT

**Agenda Topic:** Action Item: Rules for Adoption – Part 25 (Certification)

**Materials:** Recommended Rules

**Staff Contact(s):** Linda Jamali and Patrick Murphy, Division Administrators

**Purpose of Agenda Item**

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

**Expected Outcome(s) of Agenda Item**

The Board will be asked to adopt the proposed amendments to Part 25.

**Background Information**

These amendments affect a number of unrelated provisions that need to be updated for various reasons.

The material in Section 25.10 (Accredited Institution) is intended to underscore long-standing policy that is not uniformly expressed throughout this entire set of rules. Section 21-21 of the School Code equates the terms “accredited” and “regionally accredited”, both as meaning “accredited by the North Central Association or another comparable regional accrediting association”. Many Sections within Part 25 refer to institutions, sometimes using “accredited” or “regionally accredited” and other times omitting the descriptor. This amendment will insure against future challenges to the interpretation that a regionally accredited institution is meant whenever “institution” is mentioned, and that no other source of accreditation is acceptable. Rather than amending every provision where “regionally accredited” could be stated, we can accomplish the same goal more efficiently by inserting this generally applicable provision. This approach also allows us to choose a prominent location for the statement.

The revision in Section 25.37 is simply a technical correction that is needed because Section 25.42 has been repealed and the basic certification requirements are now stated in Section 25.25.

The proposed change in Section 25.115 indicates a transition to the 2008 version of the NCATE standards that apply to the accreditation of educational units.

Four Sections related to the school service personnel certificate are being amended to change the statements regarding degrees required, so that these will refer to “a master’s or higher degree” rather than simply “a master’s degree”. In two of these cases, the change will bring the rules into conformance with the underlying statutes, and in the other two cases the same

change is desired for the sake of consistency. It is counterproductive not to be able to accept higher degrees that have been obtained without first achieving a master's degree.

New Section 25.338 establishes the requirements for the new "master principal" designation, the last new initiative that was created by the "SAELP legislation" of 2006. This is to be an optional credential acquired after completion of a standard program that has been developed specifically for this purpose. Principals will blend job-embedded learning activities with observation and feedback as well as other ongoing professional development throughout a sequence of modules expected to take approximately two to three years to complete. The rule establishes the requirements for the entity or entities that will be approved to offer the program, the application and approval process, and the other basic aspects of the program's framework.

Finally, the timeframe for requesting re-scoring stated in Section 25.770 is being extended to three months. This change is made possible by a change in the testing contractor's policy.

These proposed amendments were presented for the Board's initial review in September of 2007. They were subsequently published in the Illinois Register to elicit public comment. Six submissions were received, and the issues raised are discussed in the Summary and Analysis of Public Comment attached.

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

Policy Implications: Please see above.

Budget Implications: None.

Legislative Action: None needed.

Communication: Please see "Next Steps" below.

#### **Pros and Cons of Various Actions**

Adoption of these amendments will permit needed corrections and updates to the rules, as well as providing for implementation of a new, statutorily established credential for principals. If the amendments are not promulgated, the agency will be unable to issue the "master principal" designation and the other needed updates and corrections will not be accomplished.

#### **Superintendent's Recommendation**

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

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

Certification (23 Illinois Administrative Code 25).

Further, the Board authorizes the State Superintendent of Education to make such technical and nonsubstantive changes as the State Superintendent may deem necessary in response to suggestions or objections of the Joint Committee on Administrative Rules.

#### **Next Steps**

Notice of the adopted amendments will be submitted to the Joint Committee on Administrative Rules to initiate JCAR's review. When that process is complete, the rules will be filed with the Secretary of State and disseminated as appropriate.

## **Summary and Analysis of Public Comment**

### **23 Ill. Adm. Code 25 (Certification)**

#### **Section 25.10 (Accredited Institution)**

##### **Comment**

It was pointed out that, although some institutions of higher education review and decide to accept coursework completed at other institutions that are not regionally accredited, the proposed language of this Section would preclude counting such coursework toward the fulfillment of any certification-related requirements.

##### **Analysis**

This commenter's interpretation of the proposed language is correct, and this limitation was unintentional on our part. We believe decisions about the coursework to be accepted properly rest with the institutions and that such coursework should be counted for certification-related purposes.

##### **Recommendation**

Section 25.10 should be revised to indicate that coursework "shall be completed at or accepted by a regionally accredited institution".

#### **Section 25.115 (Recognition of Institutions, Accreditation of Educational Units, and Approval of Programs)**

##### **Comment**

One commenter pointed out that 25.115(d) may be subject to misinterpretation in its reference to "review every five years until completion of its first review in light of the standards incorporated by subsection (b) of this Section". Since subsection (b) is being revised to call for reliance on the 2008 version of the NCATE standards beginning in the fall of 2008, subsection (d) might be read to mean that a five-year cycle now applies to every institution reviewed under the 2002 or earlier standards that have been referenced previously.

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##### **Analysis**

This commenter is correct that the inclusion of two sets of standards in subsection (b) makes subsection (d) difficult to understand. What is meant is that the seven-year cycle would follow each institution's original review under NCATE standards, not that each would return to a five-year cycle when new standards are applied. Because ISBE has had rules in place relying on the NCATE standards for unit accreditation since 1999, all institutions have now completed at least one review and all are on a seven-year review cycle. On that basis subsection (d) can now be simplified.

##### **Recommendation**

Section 25.115(d) should be revised as shown below:

- d) The accreditation of an educational unit and the approval of its programs shall be subject to review every seven five years ~~until completion of its first review in light of the standards incorporated by subsection (b) of this Section~~. Accreditation Review shall be conducted as provided in Sections 25.125 and 25.127 of this Part and decisions regarding continued accreditation and approval shall be made as provided in those Sections, ~~except as provided in Section 25.130, 25.135, or 25.136 of this Part~~. Once an institution has completed an Accreditation Review under the standards referenced in subsection (b) of this Section and fulfilled any requirements imposed under Section 25.127(j) of this Part, its Accreditation Reviews shall be scheduled at seven-year intervals. The State Superintendent shall alter the timing of an institution's review at the institution's request if the Superintendent determines that the request is based on unforeseen circumstances that were beyond the institution's control and were demonstrably related to the institution's ability to prepare for the review.

### **Section 25.338 (Designation as Master Principal)**

#### **Comment**

All the remaining commenters wrote on the subject of Section 35.338(a), which lists the types of entities that are eligible to apply for approval to offer a master principal program. All advocated that this provision be changed to state that a single entity would be designated as the only approved provider, for a variety of reasons. Some indicated that it would not be economically feasible for several providers to offer the program or that it would be prohibitive for the State to "fund" more than one, given the small numbers of principals who are expected to participate. If it were thought necessary to have more than one provider, it was suggested that the number be limited to two, one specifically for the City of Chicago and the other for the remainder of the state. An ideal organization was identified as an independent not-for-profit entity organized under Section 501(c)(3) of the Internal Revenue Code specifically for the purpose of designating master principals. On a related note, it was suggested that a single provider would work closely with ISBE, leading to protections against operating the program for profit.

Other commenters pointed to the intention to have a single "standards" body for principals, analogous to the National Board for Professional Teaching Standards (NBPTS) that certifies highly skilled teachers. Concerns were expressed that resources and the quality of the program would be "diluted" if offered by multiple providers and that the intended statewide networking and collaborative learning among the participants would be sacrificed. Further, the State's ability to monitor quality would be impaired, compromising the program's validity and reliability. Instead, it was recommended that this rule be rewritten to parallel the "objectivity and strength" of the new master teacher designation.

Finally, it was stated that, for the sake of credibility, the program must be offered by one provider. This would ensure consistent levels of performance and a common body of knowledge among those who complete it.

#### **Analysis**

These comments arise from the statement in Section 25.338(a) that "Statewide organizations representing principals, institutions of higher education, regional offices of education, and a school district or organization representing principals employed in a school district organized under Article 34 of the School Code shall be eligible to offer an approved master principal program". The commenters are correct that this statement means that more than one entity would be eligible. We acknowledge that those who developed the legislation for this

designation may well have intended it to be offered by a single entity, but the statement quoted above is taken directly from the law, and several other portions of the statute also refer to “entities” in the plural. Since the statutory language does make multiple entities eligible, it would not be within ISBE’s authority to indicate by rule that only one could offer it or that this must be a not-for-profit corporation. Unless the law is changed, the agency will be obligated have a rule in place that allows all the types of entities mentioned to apply for approval to operate the program.

This portion of the rule dealing with eligibility should be read in conjunction with subsection (e), which discusses the eventual decision on approval. That subsection states the criteria for this determination, and these factors include the level of need in addition to various qualifications of the applicant organizations. This provision was intentionally written to permit the State Superintendent to determine how many providers would be needed at any given time, since the level of demand is difficult to predict at this stage. Agency staff and the Superintendent share the commenters’ desire for a consistent program of high quality, and those interested can be assured that multiple providers will not be approved if that would be detrimental to these common goals.

### **Recommendation**

The statutory language reproduced in subsection (a) of the rule and other references that express the potential for more than one provider should not be changed. However, to avoid the connotation that eligibility is automatic, a reference to applying for approval should be added:

- a)      Statewide organizations representing principals, institutions of higher education, regional offices of education, and a school district or organization representing principals employed in a school district organized under Article 34 of the School Code shall be eligible to apply for approval to offer ~~the an approved~~ master principal program under this Section (see Section 21-7.10 of the School Code).

### **Comment**

It was acknowledged that there might be concern for limited access or “political” issuance of the master principal credential in the case of a single provider. To address these potential issues and protect against conflicts of interest, it was recommended that implementation of the program be regulated and monitored by an oversight entity consisting of representatives from several of the interested organizations. Duties suggested for this body included monitoring the selection of candidates, reviewing program evaluation data, and making final decisions on the issuance of the master principal designation. Similarly, one commenter indicated that the program had been designed to be a high-quality one that “accepts only the most qualified applicants”. Beyond the problems with possible different levels of services and different experiences with multiple providers, a surplus of slots was warned against, in that it would allow admission of “less than qualified” candidates due to a lowering of expectations. A related comment proposed changing the stated role of the single approved provider to “conferring” the master principal designation rather than offering the program, and several specific wording changes to the rule were displayed that would support these concepts.

### **Analysis**

These comments, while related to those outlined above, require separate responses because of underlying statutory considerations. One aspect that should be addressed is the conditions for admission of principals into the program. It should be understood that this initiative differs in an important way from certification through NBPTS. NBPTS is an independent organization that establishes its own standards and its own certification program, unrelated to authority under any



state's certification policies. As such, the National Board is at liberty to set its own admissions criteria and limit the numbers it admits to its programs. The Illinois master principal designation, on the other hand, is established by state law, with the program leading to the credential to be operated pursuant to approval by the State Board of Education. The statute contains no authority for the Board to allow any entity to impose further requirements for the program or the participants.

Section 21-7.10(c) of the School Code provides, "An individual serving as a principal for at least 3 years is eligible for participation in a master principal designation program." On this basis, individuals with three years' experience who are willing to pay the cost of participation cannot be excluded based on either ISBE's or a provider's perception of other qualifications or the lack thereof. Rather than limitations on the number of participants by a provider or an oversight body, the statutory language implies a program large enough to accommodate the eligible principals who decide to participate.

As noted above, some of the comments also involved the authority and responsibility for issuing the master principal designation. We believe the proposed rule correctly states the role of the program's provider as *recommending* individuals for the designation after they have successfully completed the program (subsection (c)(4)). There is no other instance in which an educational credential established by state law is conferred by an entity other than the State Board of Education (in consultation with the State Teacher Certification Board). It would not be appropriate for ISBE to delegate that responsibility as suggested, nor would it be in keeping with the exclusive certification authority established under Section 21-1c of the School Code.

This is not to say by any means that the agency would not be willing to make good use of the insights and advice of an advisory body made up of the organizations most closely involved in professional development for principals. However, there is no need for interactions of that nature to be specified in the rule.

### **Recommendation**

The suggested revisions stating a provider's authority for limiting admissions and issuing the master principal designation should not be made. Instead, subsections (c) and (f) should be strengthened to emphasize that ISBE is the sole source for the content of the approved program and that the program is offered under ISBE's authority.

Subsection (c)(2), which describes one of the responsibilities of approved providers, should be revised as shown below:

- 2) delivering the standardized training program furnished by the State Superintendent of Education and owned by the State Board of Education as described in subsection (b) of this Section and in conformance with the prescribed sequence and timetable;

In addition, the first sentence of subsection (f) should be revised to state:

- f) Each approved entity shall be required to enter into a contract with the State Board of Education to offer the standard program on behalf of ISBE and to perform the duties enumerated in subsection (b) of this Section.

**Comment**

It was pointed out that the introductory language for this Section might be misunderstood as meaning that a new principal could enter a master principal program right away and conceivably attain the master principal designation immediately upon completion of three years of service.

**Analysis**

We agree that the statutory cross-reference in the introductory sentence is too oblique to make it clear that three years of service are required as a condition of entry into the program under Section 21-7.10 of the School Code.

**Recommendation**

The first sentence of Section 25.338 should be revised to state, "An individual who has served as a principal for at least three years may participate in a program approved under this Section in order to qualify for receive a "master principal" designation ~~by completing a program approved under this Section~~, as provided in Section 21-7.10 of the School Code [105 ILCS 5/21-7.10]."

**Comment**

Commenters proposed several additions to the rules, including a new subsection (b) that would describe the basis on which the "approved organization" would designate principals as master principals and greater detail in what would then become subsection (c), describing two "tiers" within the program and their respective areas of focus and approximate duration. The latter of these two suggestions would also indicate that the program's total duration would be approximately three years instead of two.

**Analysis**

Because an individual seeking the designation will only be able to attain it by completing the established program under the auspices of an approved provider, it is not necessary for the rule to include the level of specificity suggested by these commenters, which would list the areas of performance to be encompassed and thus be generally redundant with language already proposed as part of subsection (b). The State's policy is adequately expressed by the level of detail set forth in the rule as proposed.

Because the program will require intensive involvement of the participants, it is entirely possible that significant numbers of individuals will take more time to complete it than originally stated in the proposed rule. We agree that subsection (b) can be revised to acknowledge this possibility.

**Recommendation**

The relevant sentence within subsection (b) should be changed to state:

The program will consist of a modular sequence of experiences lasting approximately two to three years for most participants and including a mixture of interactive, electronic professional development with structured face-to-face observations and working sessions.

**Comment**

One submission displayed a revision to subsection (f) of the proposed rule to indicate that the maximum fee a provider could charge per participant would be \$10,000 rather than \$3,500.

**Analysis**

This suggested change was not accompanied by any narrative rationale, so we do not know the basis for the higher figure. The amount of \$3,500 stated in the proposed rule was based upon

the similarity between the type of professional development to be provided as part of this program and that which occurs as part of teachers' completion of the NBPTS certification process, which costs \$2,800 per person.

In this connection it is also worth pointing out that the master principal designation is optional and will not be required for any position in the Illinois public schools. On that basis we would question whether eligible principals would consider it a worthwhile investment if priced at or near \$10,000, and we would be concerned that interest in pursuing this designation would dissipate.

### **Recommendation**

No change should be made in the maximum allowable fee at this time.

### **Comment**

It was proposed that the name of the program be changed to "Illinois Distinguished Principal Leadership Institute". It was stated that this nomenclature would reflect the purpose and legislative intent behind the program more accurately.

### **Analysis**

To reflect legislative intent, we would generally confine ourselves to use of the language that was actually included in the statute. The term "master principal designation program" is used as the title of Section 21-7.10 of the School Code and elsewhere within that Section. We do not see a substantive benefit to introducing a new phrase for something that is legislatively established under another title.

### **Recommendation**

This suggested change should not be made.

### **Comment**

It was recommended that the rules be revised to provide for a three-year pilot program to answer three specific questions:

- How many principals are interested in taking part?
- What needs to be done to improve the quality of the program?
- Is it possible for the program to be run effectively by multiple organizations simultaneously?

### **Analysis**

Since the law requires any entity operating this program to report to ISBE annually, it should be possible to answer the first two questions without a pilot program *per se*, and certainly without a rule specifically stating that this information will be gathered. The third question, on the other hand, can probably only be answered if multiple entities are approved at the outset, which would run counter to the recommendations made by this commenter and the others. Finally, establishing a pilot program by changing the proposed rule implies that the program would start up in some way substantively different from that otherwise described, perhaps covering only a limited geographic basis. It is not clear how doing so would yield a true picture of the best way to implement this initiative.

### **Recommendation**

The agency should structure the required content of the annual reports due from the provider(s) to elicit the information that is needed as the basis for future program improvements. No change in the rule is needed in order to accomplish this.

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STATE BOARD OF EDUCATION

NOTICE OF ADOPTED AMENDMENTS

TITLE 23: EDUCATION AND CULTURAL RESOURCES

SUBTITLE A: EDUCATION

CHAPTER I: STATE BOARD OF EDUCATION

SUBCHAPTER b: PERSONNEL

PART 25

CERTIFICATION

SUBPART A: DEFINITIONS

Section

25.10 Accredited Institution ~~Definition of Terms Used in This Part (Repealed)~~

SUBPART B: CERTIFICATES

Section

25.11 New Certificates (February 15, 2000)  
25.15 Standards for Certain Certificates (Repealed)  
25.20 Requirements for the Elementary Certificate (Repealed)  
25.22 Requirements for the Elementary Certificate (2004) (Repealed)  
25.25 Requirements for "Full" Certification  
25.30 Endorsement in Teacher Leadership  
25.32 Requirements for the Secondary Certificate (2004) (Repealed)  
25.35 Acquisition of Subsequent Certificates; Removal of Deficiencies (Repealed)  
25.37 Acquisition of Subsequent Teaching Certificates (2004)  
25.40 Requirements for the Special Certificate (Repealed)  
25.42 Requirements for the Special Certificate (2004) (Repealed)  
25.43 Standards for Certification of Special Education Teachers  
25.45 Standards for the Standard Special Certificate--Speech and Language Impaired  
25.50 General Certificate (Repealed)  
25.60 State Special Certificate, Grades 11-12, For Teaching Elective Subjects  
(Repealed)  
25.65 Alternative Certification  
25.67 Alternative Route to Teacher Certification  
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25.75 Part-time Provisional Certificates  
25.80 Requirements for the Early Childhood Certificate (Repealed)  
25.82 Requirements for the Early Childhood Certificate (2004) (Repealed)

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### STATE BOARD OF EDUCATION

#### NOTICE OF ADOPTED AMENDMENTS

- 25.85 Special Provisions for Endorsement in Foreign Language for Individuals Currently Certified
- 25.86 Special Provisions for Endorsement in Foreign Language for Individuals Prepared as Teachers But Not Currently Certified
- 25.90 Transitional Bilingual Certificate and Examination
- 25.92 Visiting International Teacher Certificate
- 25.95 Majors, Minors, and Separate Fields for the Illinois High School Certificate (Repealed)
- 25.99 Endorsing Teaching Certificates (Repealed)
- 25.100 Endorsing Teaching Certificates (2004)
- 25.105 Temporary Substitute Teaching Permit

#### SUBPART C: APPROVING PROGRAMS THAT PREPARE PROFESSIONAL EDUCATORS IN THE STATE OF ILLINOIS

- Section
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- 25.115 Recognition of Institutions, Accreditation of Educational Units, and Approval of Programs
- 25.120 Standards and Criteria for Institutional Recognition and Program Approval (Repealed)
- 25.125 Accreditation Review of the Educational Unit
- 25.127 Review of Individual Programs
- 25.130 Special Provisions for Institutions Subject to Conditions for Continuing Accreditation
- 25.135 Interim Provisions for Continuing Accreditation and Approval -- July 1, 2000, through Fall Visits of 2001
- 25.136 Interim Provisions for Continuing Accreditation -- Institutions Visited from Spring of 2002 through Spring of 2003
- 25.137 Interim Provisions for Continuing Accreditation and Approval -- July 1, 1999, through June 30, 2000 (Repealed)
- 25.140 Requirements for Educational Unit Assessment Systems
- 25.142 Assessment Requirements for Individual Programs
- 25.145 Approval of New Programs Within Recognized Institutions
- 25.147 Approval of Programs for Foreign Language Beginning July 1, 2003
- 25.150 The Periodic Review Process (Repealed)
- 25.155 Initial Recognition Procedures
- 25.160 Notification of Recommendations; Decisions by State Board of Education
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SUBPART D: SCHOOL SERVICE PERSONNEL

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25.210	Requirements for the Certification of School Social Workers (Repealed)
25.215	Certification of School Social Workers (2004)
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25.225	Certification of School Counselors (2004)
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25.230	Requirements for the Certification of School Psychologists (Repealed)
25.235	Certification of School Psychologists (2004)
25.240	Standard for School Nurse Endorsement (Repealed)
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25.252	Certification of Non-Teaching Speech-Language Pathologists
25.255	Interim Certification of Speech-Language Pathologist Interns

SUBPART E: REQUIREMENTS FOR THE CERTIFICATION OF ADMINISTRATIVE AND  
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25.314	Alternative Route to Administrative Certification for Teacher Leaders
25.315	Renewal of Administrative Certificate
25.320	Application for Approval of Program (Repealed)
25.322	General Supervisory Endorsement (Repealed)
25.330	Standards and Guide for Approved Programs (Repealed)
25.333	General Administrative Endorsement (Repealed)
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<u>25.338</u>	<u>Designation as Master Principal</u>
25.344	Chief School Business Official Endorsement (Repealed)
25.345	Chief School Business Official (2004)
25.355	Superintendent Endorsement (Repealed)
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STATE BOARD OF EDUCATION

NOTICE OF ADOPTED AMENDMENTS

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25.APPENDIX C	Exchange of Certificates
25.APPENDIX D	Criteria for Identification of Teachers as “Highly Qualified” in Various Circumstances
25.APPENDIX E	Endorsement Structure Beginning July 1, 2004

**AUTHORITY:** Implementing Article 21 and Section 14C-8 and authorized by Section 2-3.6 of the School Code [105 ILCS 5/Art. 21, 14C-8, and 2-3.6].

**SOURCE:** Rules and Regulations to Govern the Certification of Teachers adopted September 15, 1977; amended at 4 Ill. Reg. 28, p. 336, effective July 16, 1982; amended at 7 Ill. Reg. 5429, effective April 11, 1983; codified at 8 Ill. Reg. 1441; amended at 9 Ill. Reg. 1046, effective January 16, 1985; amended at 10 Ill. Reg. 12578, effective July 8, 1986; amended at 10 Ill. Reg. 15044, effective August 28, 1986; amended at 11 Ill. Reg. 12670, effective July 15, 1987; amended at 12 Ill. Reg. 3709, effective February 1, 1988; amended at 12 Ill. Reg. 16022, effective September 23, 1988; amended at 14 Ill. Reg. 1243, effective January 8, 1990; amended at 14 Ill. Reg. 17936, effective October 18, 1990; amended at 15 Ill. Reg. 17048, effective November 13, 1991; amended at 16 Ill. Reg. 18789, effective November 23, 1992; amended at 19 Ill. Reg. 16826, effective December 11, 1995; amended at 21 Ill. Reg. 11536, effective August 1, 1997; emergency amendment at 22 Ill. Reg. 5097, effective February 27, 1998, for a maximum of 150 days; amended at 22 Ill. Reg. 11767, effective June 25, 1998; amended at 22 Ill. Reg. 19745, effective October 30, 1998; amended at 23 Ill. Reg. 2843, effective February 26, 1999; amended at 23 Ill. Reg. 7231, effective June 14, 1999; amended at 24 Ill. Reg. 7206, effective May 1, 2000; emergency amendments at 24 Ill. Reg. 9915, effective June 21, 2000, for a maximum of 150 days; amended at 24 Ill. Reg. 12930, effective August 14, 2000; peremptory amendment at 24 Ill. Reg. 16109, effective October 12, 2000; peremptory amendment suspended at 25 Ill. Reg. 3718, effective February 21, 2001; peremptory amendment repealed by joint resolution of the General Assembly, effective May 31, 2001; emergency amendments at 25 Ill. Reg. 9360, effective July 1, 2001, for a maximum of 150 days; emergency expired November 27, 2001; emergency amendments at 25 Ill. Reg. 11935, effective August 31, 2001, for a maximum of 150 days; amended at 25 Ill. Reg. 16031, effective November 28, 2001; amended at 26 Ill. Reg. 348, effective January 1, 2002; amended at 26 Ill. Reg. 11867, effective July 19, 2002; amended at 26 Ill. Reg. 16167, effective October 21, 2002; amended at 27 Ill. Reg. 5744, effective March 21, 2003; amended at 27 Ill. Reg. 8071, effective April 28, 2003; emergency amendments at 27 Ill. Reg. 10482, effective June 26, 2003, for a maximum of 150 days; amended at 27 Ill. Reg. 12523, effective July 21, 2003; amended at 27 Ill. Reg. 16412, effective October 20, 2003; emergency amendment at 28 Ill. Reg. 2451, effective January 23, 2004, for a maximum of 150 days; amended at 28 Ill. Reg. 8556, effective June 1, 2004; emergency amendments at 28 Ill. Reg. 12438, effective August 20, 2004, for a maximum of 150 days; amended at 29 Ill. Reg. 1212, effective January 4, 2005; amended at 29 Ill. Reg. 10068, effective

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June 30, 2005; amended at 29 Ill. Reg. 12374, effective July 28, 2005; emergency amendment at 29 Ill. Reg. 14547, effective September 16, 2005, for a maximum of 150 days; amended at 29 Ill. Reg. 15831, effective October 3, 2005; amended at 30 Ill. Reg. 1835, effective January 26, 2006; amended at 30 Ill. Reg. 2766, effective February 21, 2006; amended at 30 Ill. Reg. 8494, effective April 21, 2006; amended at 31 Ill. Reg. 10645, effective July 16, 2007; amended at 31 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.

#### SUBPART A: DEFINITIONS

##### **Section 25.10 Accredited Institution ~~Definition of Terms Used in this Part (Repealed)~~**

As used in this Part, “institution” means a regionally accredited institution of higher learning as specified in Section 21-21 of the School Code [105 ILCS 5/21-21]. Accordingly, any coursework required for, or counted towards fulfilling the requirements for, a credential issued pursuant to this Part shall be completed at or accepted by a regionally accredited institution, and approval of preparation programs under Subpart C of this Part shall be available only to regionally accredited institutions.

(Source: Old Section repealed at 29 Ill. Reg. 15831, effective October 3, 2005; new Section adopted at 31 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

#### SUBPART B: CERTIFICATES

##### **Section 25.37 Acquisition of Subsequent Teaching Certificates (2004)**

The provisions of this Section shall apply when an individual who already holds one or more Illinois early childhood, elementary, secondary, or special teaching certificates wishes to receive an additional teaching certificate of one of those types pursuant to Section 21-11.2 of the School Code.

- a) The candidate shall submit his or her official transcripts and evidence of teaching experience to an Illinois institution of higher education operating a program approved pursuant to Subpart C of this Part that prepares candidates for the certificate sought.
- b) The institution may, at its discretion, compare the coursework and clinical experiences already completed by the applicant to the standards for the certificate sought and, based on this comparison, may identify for the candidate a “focused

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program” consisting of coursework and experiences that he or she must complete in order to meet those standards.

- 1) In formulating such a program, the institution shall ensure that the candidate has broad and deep knowledge of the subject matter, develops the knowledge and skills that are needed to work with students in the age and grade ranges encompassed by the certificate sought, and is knowledgeable about pedagogical approaches that are suitable for that age group.
  - 2) The institution may revise an individual’s focused program to include additional or fewer components as it may deem appropriate based upon the results of internal performance assessments that form part of the unit assessment system (see Section 25.140 of this Part) or other assessments that are directly related to the standards for the certificate sought.
  - 3) Each institution shall make available a description of the method to be used by the educational unit in assessing the degree to which the work previously completed by candidates for focused programs has addressed relevant standards and in identifying the coursework and experiences these candidates will be required to complete in order to qualify for subsequent certificates. An institution that uniformly requires all candidates seeking subsequent teaching certificates or subsequent teaching certificates of a particular type under this Section to complete certain coursework or field experiences, or to complete a full program without acknowledgment of prior courses or experiences, shall publish and make available a written statement to this effect, describing those requirements.
- c) A candidate who completes a focused program shall be considered as having completed the institution’s approved program for the certificate sought and shall be eligible to be recommended for certification by entitlement, signifying that the candidate has met all applicable standards.
- d) The provisions of subsections (a) through (c) of this Section notwithstanding, an individual who holds a valid secondary certificate may receive a special K-12 certificate by submitting an application, along with the required fee and evidence of having passed the test of basic skills and the applicable content-area test and the assessment of professional teaching relevant to the special certificate (see Section 25.720 of this Part). An endorsement valid for Grades K-12 shall be

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affixed to the certificate, reflecting the area in which the individual has completed a major area of specialization as provided in Section 25.25(b) ~~25.42(d)~~ of this Part. Additional endorsements may be affixed pursuant to Sections 25.100 and 25.497 of this Part.

(Source: Amended at 31 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

SUBPART C: APPROVING PROGRAMS THAT PREPARE PROFESSIONAL  
EDUCATORS IN THE STATE OF ILLINOIS

**Section 25.115 Recognition of Institutions, Accreditation of Educational Units, and  
Approval of Programs**

In order for an Illinois institution of higher education to offer one or more programs that prepare professional educators, that institution must be recognized, and the educational unit responsible for such programs must be accredited, by the State Board of Education in consultation with the State Teacher Certification Board. "Educational unit" means the institution or college, school, department, or other administrative body within the institution that is primarily responsible for the initial and continuing preparation of teachers and other education professionals. Each program that is offered by a recognized institution must also be individually approved by the State Board of Education in consultation with the State Teacher Certification Board. "Program" or "preparation program" means a program that leads to certification. Electronic transmission of written materials required pursuant to this Subpart C may be authorized or required by the State Superintendent of Education when this method may be more cost effective or feasible.

- a) An institution shall be recognized if it is regionally accredited and:
  - 1) is approved as a degree-granting institution by the Illinois Board of Higher Education, if the institution is subject to provisions of the Institution of Learning Powers Act [110 ILCS 50];
  - 2) sponsors a course of study leading to an appropriate baccalaureate or higher degree and awards the degree; and
  - 3) conducts or proposes to conduct at least one approved program that will prepare professional educators.
- b) An educational unit shall be accredited if its accreditation visit occurs prior to the fall of 2008 and the institution meets the standards enumerated in "Professional

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Standards for the Accreditation of Schools, Colleges, and Departments of Education” (2002), published by the National Council for the Accreditation of Teacher Education (NCATE), 2010 Massachusetts Avenue, N.W., Suite 500, Washington, D.C. 20036-1023 (no later amendments to or editions of these standards are incorporated by this Section). Beginning with accreditation visits in the fall of 2008, the 2008 edition of these standards shall apply; no later amendments or editions are incorporated.

- c) A preparation program shall be approved if it meets the applicable content standards established by the State Board of Education and the standards set forth at 23 Ill. Adm. Code 24 (Standards for All Illinois Teachers) or 23 Ill. Adm. Code 29.100 (Illinois Professional School Leader Standards), as applicable, except as provided in Section 25.135 of this Part.
- d) The accreditation of an educational unit and the approval of its programs shall be subject to review every seven ~~five~~ years ~~until completion of its first review in light of the standards incorporated by subsection (b) of this Section.~~ Accreditation Review shall be conducted as provided in Sections 25.125 and 25.127 of this Part and decisions regarding continued accreditation and approval shall be made as provided in those Sections, ~~except as provided in Section 25.130, 25.135, or 25.136 of this Part. Once an institution has completed an Accreditation Review under the standards referenced in subsection (b) of this Section and fulfilled any requirements imposed under Section 25.125(j) of this Part, its Accreditation Reviews shall be scheduled at seven year intervals.~~ The State Superintendent shall alter the timing of an institution’s review at the institution’s request if the Superintendent determines that the request is based on unforeseen circumstances that were beyond the institution’s control and were demonstrably related to the institution’s ability to prepare for the review.
- e) Each accredited educational unit shall annually submit to the State Superintendent of Education, in a format defined by the State Superintendent and according to a timeline announced at least six months in advance:
  - 1) a report that describes any significant changes in the unit or its programs, updates any information previously provided as needed, and provides institutional data that describe the results of unit and program assessments and the actions taken or planned to address areas identified for improvement; and

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- 2) as relevant to the institution, a report on all programs provided by the institution that have been approved as an alternative route to certification under Section 25.67 of this Part.
- f) If relevant to the institution, the report required under subsection (e) of this Section shall include a description of how the unit has addressed any applicable standards identified during the most recent review of the unit and its programs as “not met” or “met with areas for improvement”. However, for institutions that have been assigned “Continuing Accreditation with Conditions” or “Probation”, this description shall not be required in those years in which the institution is required to submit a special report or is subject to a focused or full visit as discussed in Section 25.125(j) of this Part.
- g) No later than April 7 of each year, each institution shall report to the State Board of Education, using a form supplied by the Board, on its program completers’ pass rates on the examinations required for initial certification pursuant to this Part and other information required by Title II of the Higher Education Act [20 USCA 1027]. Further, each institution shall make this information readily available to the public on an annual basis and shall include it in or with publications routinely sent to potential applicants, guidance counselors, and prospective employers of the institution’s program completers.

(Source: Amended at 31 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

SUBPART D: SCHOOL SERVICE PERSONNEL

**Section 25.215 Certification of School Social Workers (2004)**

- a) Each candidate for the school service personnel certificate endorsed for school social work shall hold a master’s or higher degree in social work with a specialization in school social work awarded by a graduate school of social work accredited by the Council on Social Work Education.
- b) Each candidate shall have completed an Illinois program approved for the preparation of school social workers pursuant to Subpart C of this Part or a comparable approved program in another state or country or hold a comparable certificate issued by another state or country (see Section 25.425 of this Part).

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- c) Each candidate shall have completed both a supervised field experience of at least 400 contact hours, supervised by a field instructor holding a master's or higher degree in social work, and a school social work internship of at least 600 contact hours in a school setting.
- d) Each candidate shall be required to pass the applicable content-area test (see Section 25.710 of this Part), as well as the test of basic skills, subject to the provisions of Section 25.720 of this Part. (See also 23 Ill. Adm. Code 23.140.)
- e) Nothing in this Section is intended to preclude the issuance of a provisional certificate under Section 21-10 of the School Code.

(Source: Amended at 31 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 25.225 Certification of School Counselors (2004)**

An individual who qualifies for an Illinois master school service personnel certificate in school counseling under Section 21-25(d) of the School Code shall not be subject to the requirements of this Section.

- a) Each applicant for the school service personnel certificate endorsed for school counseling shall hold a master's or higher degree awarded by a regionally accredited institution of higher education in school counseling, another counseling or related field (e.g., social work or psychology), or an educational field. (See subsection (h) of this Section.)
- b) Each applicant shall have completed an Illinois program approved for the preparation of school counselors pursuant to Subpart C of this Part or a comparable approved program in another state or country or hold a comparable certificate issued by another state or country (see Section 25.425 of this Part).
- c) Each candidate shall have completed a supervised counseling practicum of at least 100 clock hours that provided interaction with individuals and groups of school age and included at least 40 hours of direct service work. Except as provided in subsection (e) of this Section, each applicant shall have completed a structured and supervised internship that is part of an approved program.
  - 1) The internship shall be of a length that is determined by the approved program to be adequate to enable candidates to meet the standards set



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forth at 23 Ill. Adm. Code 23.110 but shall entail at least 600 hours and last no less than one semester, during which the candidate shall engage in the performance of various aspects of the counseling role and shall be gradually introduced to the full range of responsibilities associated with that role. However, the internship for an individual with at least two years of teaching experience may, at the discretion of the institution offering the approved program, consist of no fewer than 400 hours. In each case at least 240 hours of the internship shall involve direct service work with individuals and groups of school age.

- 2) The internship shall occur in a school setting except that, at the discretion of the institution, a maximum of one-third of the hours required may be credited for experiences in other related settings such as hospitals or day care settings that, in the judgment of the institution, expose the candidate to the needs of school-aged children and prepare the candidate to function as a school counselor.
  - 3) An institution may recommend certification of a candidate who was enrolled in an approved program prior to July 1, 2004, and has completed an internship meeting the requirements applicable at the time of his or her enrollment.
- d) Except as provided in subsections (e) and (f) of this Section, each applicant shall either:
- 1) hold or be qualified to hold a teaching certificate; or
  - 2) have completed, as part of an approved program, coursework addressing:
    - A) the structure, organization and operation of the educational system, with emphasis on P-12 schools;
    - B) the growth and development of children and youth, and their implications for counseling in schools;
    - C) the diversity of Illinois students and the laws and programs that have been designed to meet their unique needs; and
    - D) effective management of the classroom and the learning process.

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- e) An applicant who holds another state's certification in school counseling shall not be subject to the requirements of subsection (c) or subsection (d) of this Section if he or she presents evidence of at least two years' full-time experience as a school counselor.
- f) An applicant who has completed an approved school counseling program in another state that includes an internship meeting the requirements of subsection (c) of this Section shall not be subject to the requirements of subsection (d) of this Section.
- g) Each candidate shall be required to pass the applicable content-area test (see Section 25.710 of this Part), as well as the test of basic skills, subject to the provisions of Section 25.720 of this Part. (See also 23 Ill. Adm. Code 23.110.)
- h) An applicant who holds a master's degree in any field other than school counseling, or who holds a bachelor's degree only, shall be required to complete the equivalent of all requirements of an approved school counseling preparation program. The Illinois institution offering the program shall review the individual's educational and experiential background and identify any of the standards set forth at 23 Ill. Adm. Code 23.110 or other applicable requirements of this Section that the individual's preparation has not addressed. Upon successful completion of the coursework and experiences offered by the institution that address the identified standards, the applicant shall be eligible to be recommended for certification by entitlement.
- i) Nothing in this Section is intended to preclude the issuance of a provisional certificate under Section 21-10 of the School Code.

(Source: Amended at 31 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 25.227 Interim Certification of School Counselor Interns (2004)**

- a) An individual who wishes to participate in an internship enabling him or her to meet the requirements described in Section 25.225 of this Part may obtain interim certification as a school counselor intern. Each applicant for this certification shall either:

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- 1) have completed, as part of an approved program, all the coursework described in Section 25.225(d)(2) of this Part; or
  - 2) hold a master's or higher degree in a field of counseling other than school counseling and be working toward completion of all requirements necessary for certification as a school counselor as described in Section 25.225(h) of this Part.
- b) Each applicant shall be in good health and of sound moral character and shall be a citizen of the United States or be legally present in the United States and possess legal authorization for employment.
  - c) Each applicant shall submit the required fee along with an application to the State Board of Education and a transcript indicating compliance with subsection (a) of this Section.
  - d) Interim certification as a school counselor intern shall be valid for three years, subject to Section 21-22 of the School Code, and shall not be renewable.

(Source: Amended at 31 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 25.235 Certification of School Psychologists (2004)**

- a) Each candidate for the school service personnel certificate endorsed for school psychology shall hold a master's or higher degree in psychology or educational psychology with a specialization in school psychology.
- b) Each candidate shall have completed an Illinois program approved for the preparation of school psychologists pursuant to Subpart C of this Part or a comparable approved program in another state or country or hold a comparable certificate issued by another state or country (see Section 25.425 of this Part).
- c) Each candidate shall have completed both a supervised field experience of at least 250 hours in a school setting and/or child study center and an internship of at least 1200 contact hours and lasting a full school year under the direction of an intern supervisor.

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- d) Each candidate shall be required to pass the applicable content-area test (see Section 25.710 of this Part), as well as the test of basic skills, subject to the provisions of Section 25.720 of this Part. (See also 23 Ill. Adm. Code 23.130.)
- e) Nothing in this Section is intended to preclude the issuance of a provisional certificate under Section 21-10 of the School Code.

(Source: Amended at 31 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

SUBPART E: REQUIREMENTS FOR THE CERTIFICATION OF ADMINISTRATIVE AND SUPERVISORY STAFF

**Section 25.338 Designation as Master Principal**

An individual who has served as a principal for at least three years may participate in a program under this Section in order to qualify for a “master principal” designation, as provided in Section 21-7.10 of the School Code [105 ILCS 5/21-7.10]. The master principal designation shall be an optional, advanced credential and shall not be subject to the provisions of Section 25.100 of this Part, except that payment of the fee specified in Section 21-12 of the School Code [105 ILCS 5/21-12] shall be required. Each individual seeking the designation shall apply for admission to the program through a provider approved pursuant to this Section. An individual may transfer between programs approved under this Section.

- a) Statewide organizations representing principals, institutions of higher education, regional offices of education, and a school district or organization representing principals employed in a school district organized under Article 34 of the School Code [105 ILCS 5/Art. 34] shall be eligible to apply for approval to offer the master principal program under this Section (see Section 21-7.10 of the School Code).
- b) The approved program to be offered under this Section shall be designed to help public school principals increase their knowledge and skills related to their role in school leadership, including change management, teaching and learning, collaborative relationships, and accountability systems. The program will consist of a modular sequence of experiences lasting approximately two to three years for most participants and including a mixture of interactive, electronic professional development with structured face-to-face observations and working sessions. Participants will apply the approaches learned to specific, immediate and long-term issues within their schools.

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- c) Each entity that is approved as a provider under this Section shall have the following responsibilities:
- 1) receiving applications for admission to the program, verifying applicants' eligibility to participate, and maintaining documentation of their eligibility;
  - 2) delivering the standardized training program furnished by the State Superintendent of Education and owned by the State Board of Education as described in subsection (b) of this Section and in conformance with the prescribed sequence and timetable;
  - 3) ensuring that participants meet the performance benchmarks throughout the program before they are allowed to progress to subsequent modules; and
  - 4) verifying whether participants complete the entire program, recommending successful participants for the master principal designation, and maintaining records to substantiate these recommendations.
- d) Each entity seeking approval to offer the program for purposes of this Section shall submit an application to the State Superintendent of Education, in a format prescribed by the State Superintendent. Each application shall be required to address:
- 1) the organization's qualification for and experience with the provision of professional development to educators;
  - 2) the organization's capacity and plans for delivering the standard program as specified by the State Superintendent, including a description of relevant personnel and their expertise, available physical facilities, and telecommunications capabilities; and
  - 3) the minimum number of principals the organization must enroll in order to offer the program cost-effectively, the maximum number the organization can serve, and any applicable geographic focus or limitations.

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- e) Approval of an entity as a provider of the master principal program shall be contingent upon the level of need in various parts of the State and the provider's demonstration of:
- 1) on-going involvement with the work of public school principals;
  - 2) the ability to deliver on-line instruction and interactive communication;
  - 3) sufficient capacity for conducting the required face-to-face sessions, performing observations, and providing feedback to the principals served in one or more geographic areas of the State, in keeping with the requirements of the standardized program; and
  - 4) access to trainers who hold administrative certification and have experience as public school principals within the previous five years.
- f) Each approved entity shall be required to enter into a contract with the State Board of Education to offer the standard program on behalf of ISBE and to perform the duties enumerated in subsection (b) of this Section. An entity approved pursuant to this Section shall be authorized to charge a fee not to exceed \$3,500 of each eligible individual who is seeking the master principal designation. No other entity shall be authorized to charge any fee for offering the standard program discussed in this Section.
- g) The State Superintendent of Education may evaluate any approved provider at any time to ensure compliance with the requirements of this Section and Section 21-7.10 of the School Code. Each approved provider must permit ISBE staff to attend or observe any portion of the program at no charge to ISBE.
- h) The State Superintendent of Education shall maintain a current list of approved providers for the master principal program on the web site of the State Board of Education. Notwithstanding the fact that the standard program is in the public domain, the master principal designation shall be available only to candidates who complete the program under the supervision of a provider approved under this Section. No other entity shall advertise or claim that the master principal designation is available under its auspices, and no other entity shall charge a fee of any individual for completing the program.

(Source: Added at 31 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

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SUBPART I: ILLINOIS CERTIFICATION TESTING SYSTEM

**Section 25.770 Re-scoring**


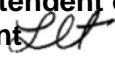

- a) A person shall have the right to request re-scoring of the basic skills test, the APT, or a test of subject matter knowledge, provided such a request is submitted in writing and received by the State Board of Education within three months ~~ten weeks~~ after the test administration date and is accompanied by payment of the applicable fee. A person shall also have the right to request re-scoring of a language proficiency test. However, no re-scoring service shall be available for the constructed-response portions of a language proficiency test; re-scoring on such a test shall be limited to the multiple-choice items only.
- b) In the case of any discrepancy discerned as a result of re-scoring, the State Board of Education will correct its records and inform all parties to whom the test score was reported as to the person's score.

(Source: Amended at 31 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)



**ILLINOIS STATE BOARD OF EDUCATION MEETING**  
**January 16-17, 2008**

**TO:** Illinois State Board of Education

**FROM:** Christopher A. Koch, Ed.D., State Superintendent of Education   
Linda Tomlinson, Assistant Superintendent   
Darren Reisberg, General Counsel 

**Agenda Topic:** Action Item: Rules for Adoption – Part 675 (Providers of Supplemental Educational Services)

**Materials:** Recommended Rules

**Staff Contact(s):** Randy Niles, Division Administrator

**Purpose of Agenda Item**

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

**Expected Outcome(s) of Agenda Item**

The Board will be asked to adopt the proposed amendments to Part 675.

**Background Information**

These amendments involve numerous aspects of the supplemental educational services (SES) system and arose from the agency's experience with administration of this system over the last two years.

First, there are several areas in which the code of ethics for providers (Section 675.30) needs to be strengthened. In particular, we have determined that additional statements need to be made to emphasize "truth in advertising". On the other hand, it has been brought to our attention that some additional flexibility is needed in the allowable roles for district employees when a district is also a provider of SES. It has never been our intention to preclude such districts from employing staff to manage those services, and that distinction needs to be set forth in the rules; see Section 675.30(h).

The rules do not currently set forth requirements for the qualifications of tutors. However, since SES programs are supported with federal funds under Title I of NCLB, individuals may not be assigned as tutors unless they hold at least the qualifications required of paraprofessionals in Title I programs. Since there are several options that qualify individuals for that type of paraprofessional approval, a cross-reference to the relevant portion of Section 25.510 of the certification rules has been included as the simplest way of ensuring providers' awareness of this requirement.

Another personnel matter relates to the use (in on-line SES programs) of tutors who live in other countries. In principle there is no reason to prohibit this practice, but permitting it introduces some further complexity in connection with criminal background checks. Under Section 10-21.9 of the School Code, the employees of firms holding contracts with school districts are subject to

the same requirements as apply to district employees, and it is the district that must initiate the checks. However, it is not reasonable to expect that school districts will know the countries of residence of providers' employees or be able to contact the responsible authorities. The new material in Section 675.150 (Provider's Relationship with District) sets up a mechanism by which districts will include this as a responsibility of the provider when applicable and discusses how the results will be transmitted.

A number of improvements and clarifications are being proposed with regard to the approval process. We have determined that less burdensome cost estimates can be required as part of applications without impairing our ability to review them. That is, it is sufficient to require the submission of a more general estimate of typical program cost rather than an estimate for each district the provider wishes to serve. District-specific detail is more appropriate to require at a later time, before providers negotiate their contracts with districts. We have also determined that it will be beneficial to establish a uniform understanding of timing issues associated with the approval of providers. In particular, we see a need to establish a clear annual cycle, incorporate some flexibility for unforeseen difficulties, and allow latitude for districts in response to changes that occur after the beginning of a particular year. See new Section 675.65.

ISBE is required by the U.S. Department of Education to review and approve the communications districts use annually to advise parents of the availability of SES. Clearly, this must be accomplished in advance, leading to the need for a rule establishing the timeframe. Section 675.175(a) is being expanded to cover this point. In order to eliminate as much unnecessary paperwork as possible, we have included permission for districts to assure the State Superintendent that materials previously approved will not be changed in any substantive way. This will allow them to avoid repetitive submissions and should help streamline ISBE's review process.

Section 675.230 requires that "agreed-upon procedures" be performed by certified public accountants (CPAs) with respect to the records of nongovernmental providers that serve more than 50 students. ISBE has not prescribed a standard format for the CPAs' reports, and the level of detail presented has varied widely. While we have no desire to require use of a template dictated by ISBE, we evidently need to ensure that CPAs not only perform the required procedures but also report on discrepancies and areas of non-compliance if any are identified. The proposed revisions in Section 675.230(a) are intended to elicit that information without imposing a rigid format.

These proposed changes were presented for the Board's initial review in September of 2007 and subsequently published in the Illinois Register to elicit public comment. Three submissions were received, and the issues raised are discussed in the Summary and Analysis of Public Comment attached.

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

Policy Implications: Please see above.

Budget Implications: None.

Legislative Action: None needed.

Communication: Please see "Next Steps" below.

**Pros and Cons of Various Actions**

Making these changes will strengthen providers' accountability in some respects where the current rules lack adequate specificity and eliminate several areas of confusion connected to the approval cycle. If the rulemaking is not undertaken, it will not be possible to establish the various new requirements and understandings that are included.

**Superintendent's Recommendation**

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

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

Providers of Supplemental Educational Services (23 Illinois Administrative Code 675).

Further, the Board authorizes the State Superintendent of Education to make such technical and nonsubstantive changes as the State Superintendent may deem necessary in response to suggestions or objections of the Joint Committee on Administrative Rules.

**Next Steps**

Notice of the adopted amendments will be submitted to the Joint Committee on Administrative Rules to initiate JCAR's review. When that process is complete, the rules will be filed with the Secretary of State and disseminated as appropriate.

## **Summary and Analysis of Public Comment**

### **23 III. Adm. Code 675 (Providers of Supplemental Educational Services)**

#### **Section 675.30 (Code of Ethics)**

Two of the commenters reacted to the proposed insertion in subsection (a) requiring providers to be consistent in describing the number of hours of service that make up their programs. They acknowledged that the rule's aim was to ensure that providers charge their actual cost of services but suggested that this goal could be met while still affording providers some protection against risk. In their view, providers have much higher costs for the first hour of service than for the last, due to start-up expenses such as training for tutors and purchasing books and materials. They considered the requirement for a uniformly calculated hourly rate to be almost a guarantee that providers would lose money on students who leave the program before completing the later service hours. As such, they believed this would be a disincentive to provide services in districts where many students might not finish the program. To protect against this risk, they proposed that the rule permit a start-up fee (suggested at \$200 per student), positing that in the long run this would allow providers to recoup their true costs and thus make available the widest possible array of services from which families could choose.

#### **Analysis**

We do not believe it would be appropriate for ISBE to subordinate other policy goals to providers' desire to avoid business risk, however understandable. The method of calculation set forth in these rules is structured to capture the legitimate costs of the SES program and to make these as transparent as possible. For this reason, we continue to believe it justifiable to preclude providers from asserting that any part of a program is being offered free of charge. Further, permitting providers to recoup their costs at an accelerated pace would be counterproductive from the State's perspective, because it would diminish the existing financial incentive for providers to do everything in their power to motivate students to complete all the hours offered in the program.

It should also be noted that start-up costs are not typically recouped at the very beginning of a business endeavor. For example, the owner of a new gasoline station does not expect to charge several times the current cost of a gallon of gasoline in order to ensure that the cost of building the station will be returned. Similarly, newly licensed physicians do not charge their first patients much higher rates until their educational debts are paid. For these reasons, we consider it correct to spread the entire allowable cost over the entire length of the SES program.

#### **Recommendation**

Section 675.30(a) should not be changed in response to these comments.

#### **Comment**

One commenter considered subsection 675.30(p) to be too broad, indicating that parents need as much information as they can get. The commenter recommended that providers be allowed to contact the families served in the prior year in order to provide them with information and stated this to be consistent with guidance issued by the U.S. Department of Education (USDE).

#### **Analysis**

The provision in question would establish a prohibition on using information provided by parents for commercial purposes. It is correct that USDE has communicated with state educational agencies to the effect that it is not a violation of the Family Education Rights and Privacy Act

(FERPA) for providers to communicate with families whom they have previously served. The language of the proposed rule does not distinguish this permissible communication from other commercial purposes but should do so.

### **Recommendation**

Proposed Section 675.30(p) should be revised to state:

- p) A provider shall not use information provided by parents of students served under this Part for any commercial purpose without securing the parent's prior written consent for the intended use of the specified information, except that a provider may use parental contact information to communicate about SES with the parents of students served by that specific provider in any prior year.

### **Comment**

It was proposed that Section 675.30 should also include certain ethics-related requirements for district personnel who are not providers in the SES program or, alternatively, that this Section should be made applicable to districts as well as providers. Sanctions were also suggested for provider/districts that are found to be in violation of such requirements, based on the concept that districts serving as providers have an advantage that is hard to regulate. In particular, it was suggested that districts found to have violated the requirements of new subsection (h)(2) should not be allowed to serve as providers for at least a full school year, with students transferred to their second-choice providers.

### **Analysis**

There have unfortunately been some instances of actions on the part of district personnel that are not in keeping with the spirit of NCLB, and we agree that it is not only providers who are under an obligation to conduct themselves ethically. Since many of the provisions of Section 675.30 would not make sense if applied in blanket fashion to districts that are not providers, the specific additions related to district personnel that are suggested below will be more useful.

We do not agree that a separate set of sanctions is needed in order to respond to any district's violations of the new specifications set forth in Section 675.30(h)(2), however. These apply when the district or an individual school is a provider of SES, so such instances will already be covered by the provisions of Section 675.90(h), which discusses corrective action and removal of providers from the State-approved list in response to compliance issues.

This comment led us to recognize that the language of subsection (h)(2) as proposed does not acknowledge that individual schools may also be providers of SES. Rewording that provision is needed so that it will be technically correct.

### **Recommendation**

The introductory sentence to Section 675.30 should be deleted, since it refers only to providers. ("In addition to all other requirements imposed by law, all providers of SES must abide by a code of ethics consisting of the following requirements:") This will allow each of the statements in the rest of the Section to stand on its own.

Subsection (h)(2) of this Section should be revised as shown below.

- 2) Where a school district or a school is also a provider of SES, an individual may be employed ~~A school district that is also a provider of supplemental education services may employ an individual~~ as coordinator or site manager for the SES program it

provides if the individual will have no other responsibilities apart from oversight and management of that SES program, which may include marketing and recruitment, subject to the following additional requirements.

In addition, a new subsection (q) should be added as follows:

- q) School district personnel shall treat all providers of SES impartially. Whether or not the employing district or school is a provider, school personnel shall not:
- 1) promote or disparage specific SES providers;
  - 2) distribute SES enrollment forms that include a pre-printed provider's name;
  - 3) obstruct parents in exercising their right to select an SES provider;
  - 4) seek to influence parents' choices among SES providers;
  - 5) alter or destroy registration forms submitted by parents without specific authorization from the parents; or
  - 6) encourage students to drop out of an SES program or switch providers once enrolled.

#### **Section 675.40 (Programmatic Requirements)**

##### **Comment**

The meaning of the proposed new language in the introductory sentence to this Section was not uniformly recognized. One commenter understood the phrase “conducted at a location other than a private dwelling” to be an inappropriate prohibition against even on-line tutoring where the student is at home but the tutor is at a distant location. The others acknowledged that the rule was probably only meant to exclude tutoring provided *in person* in a private home. A revision for clarity was suggested by one, but the other noted that 48 states do permit this type of operation. It was stated that some parents have requested in-home tutoring programs for the sake of safety, convenience, and their own ability to be engaged in the process, and ISBE’s authority to “trample parental rights” and the requirements of federal law was questioned. Assistance in developing appropriate safeguards for these tutoring situations was offered as an alternative to this prohibition.

##### **Analysis**

It was certainly not our intention to keep families from taking advantage of on-line tutoring. We know of at least one provider who will even furnish the computers for students to use, and we would have no reason to limit this type of program. In drafting this new provision, we intentionally used the word “conducted” in order to connote the actions of the tutors rather than the whereabouts of the students receiving services. We believed this would be clear enough when read in conjunction with the discussion in Section 675.150 regarding criminal background checks for tutors residing outside the U.S., since those individuals would obviously be performing tutoring on line. However, alternative phrasing can be used to make the distinction clear.

While it is true that USDE is interested in the maximum possible amount of choice for parents whose children qualify for SES, we believe the potential for abuse is simply too great in a private

situation where the tutor is in a home with a child. In many such instances there might not be another responsible adult present. There may also be situations in which the recipient child is not in jeopardy but one or more other youngsters in the home may be. States are not precluded from prohibiting this practice, and we believe the concern for abusive interactions correctly outweighs the desirability of parental choice in this case. Questions of liability would obviously also arise if there were a problem of this nature, but we should keep in mind that these would be secondary to the detrimental effects on the children involved.

### **Recommendation**

The introduction to this rule should be revised so that it will clearly permit on-line tutoring experienced by children in private dwellings but continue to prohibit face-to-face tutoring in the home, as shown below.

Each provider's SES program shall be conducted at or from a location other than a private dwelling and...

### **Comment**

It was proposed that, if Section 675.40(g) is intended to permit the hiring of non-resident tutors, the organization intending to operate in this way be required to demonstrate that attempts were made first to hire tutors who do reside in the United States.

### **Analysis**

At this point we know of only one provider that is approved to serve Illinois school districts and uses the services of tutors living outside the U.S. Because on-line tutoring is likely to be a useful method for serving the more isolated rural areas, ISBE has an interest in avoiding any constraints on on-line providers that are unrelated to the quality of the program or the safety of the students.

It seems evident that providers would hire U.S residents if that were more cost-effective. Further, we would not consider it appropriate for ISBE to constrain providers' choice among individuals who meet the requirements for service. This could clearly have the unintended result of limiting the pool of individuals who are available to serve students for whom very few other options exist. For this reason we do not believe it is advisable to intervene in these hiring practices as suggested.

### **Recommendation**

No change should be made in response to this comment.

## **Section 675.50 (Application Requirements)**

### **Comment**

One respondent indicated that the required declaration of the minimum feasible enrollment level (in the application for approval; see subsection (a)(5)) should relate to the site level rather than the district level. He stated that the minimum number of students needed by a provider in order to offer services must be calculated by site, because that is where there is the greatest variability in cost based on enrollment.

### **Analysis**

We understand this concern in connection with large districts where combining students from multiple attendance centers is not reasonable. On the other hand, providers in other situations may not see any utility in specifying their minimums at this level of detail. There is no reason

why the rule cannot accommodate both situations, since the point is only to understand each provider's willingness and commitment to provide services.

### **Recommendation**

Subsection (a)(5) should be revised to call for:

- 5) the minimum number of students required by the eligible applicant in order to offer SES to a district and an indication of any districts in which that minimum will apply to each site served rather than to the district in the aggregate;

## **Section 675.60 (Application Process)**

### **Comment**

The five-year period of ineligibility provided for in Section 675.60(d) was stated to be overly harsh. It was proposed that this time period be reduced to three years and also that it be made applicable to public schools and districts as well.

### **Analysis**

This rule imposes a period of ineligibility to offer SES as a result of a provider's removal from the State-approved list for cause. Fortunately this is a penalty that has not yet been used. We have not seen evidence that such a heavy deterrent is needed and agree that a three-year period is probably sufficient to serve the same purpose. The more severe penalty can be re-instituted in the event that gross noncompliance seems to be emerging.

It should be noted that this provision does apply to the providers that are also school districts, other than in the special circumstance of a district's removal from "improvement status". This provision responds directly to federal action taken with respect to the Chicago Public Schools and several other large districts, and it needs to remain in place with only the original edits in order to be in keeping with the uniform annual schedule for the application process.

### **Recommendation**

The relevant portion of Section 675.60(d) should be changed to state that "the provider and any related organization shall be ineligible for re-apply for any of the following three ~~five~~ fiscal years".

## **Section 675.70 (Reporting Requirement)**

### **Comment**

In response to existing language in subsection (a) of this Section about tracking student enrollment, one commenter stated that providers need to know which system will be used and what specific data a provider will be expected to capture. The commenter also questioned whether the system mentioned in the rule was the same system used by the Chicago Public Schools in school year 2006-07. Possible drawbacks were noted if links to some providers' proprietary test engine would be lost by using another system. The commenter pointed to the high cost of manual data entry and the potential for error associated with data entry as opposed to data transfer. The need to safeguard comprehensive data, once gathered, was also highlighted.

### **Analysis**



Uniform statewide reporting of student-related data is necessary in order to permit the types of evaluation of SES that are required. Although ISBE has, at some considerable degree of trouble and expense, developed a student tracking system that works well, the rule in question currently allows for agreement between a district and a provider to use a different student tracking system as the basis for billing if they wish.

These comments point to the desirability of maintaining just one universal system for this purpose. On balance, therefore, we believe it would be preferable to reverse the proposed insertion at the end of subsection (a) and also to eliminate the current provision that allows districts and providers to agree on using another system instead. We note that this would not preclude either districts or providers from using local or proprietary systems in addition if they so desire. Further, technological capabilities are changing rapidly over time, and more direct electronic communications between ISBE's system and providers' systems may become feasible in the future.

### **Recommendation**

The proposed version of Section 675.70(a) should be revised as shown below.

- a) Each provider shall be required to use a tracking system for student enrollment and progress developed by ISBE. ~~Unless otherwise agreed to between the district and a provider, this~~ This tracking system shall also be used to determine the amount billable to the district for the provider's services. ~~A district that intends to agree otherwise shall notify the State Superintendent to this effect no later than five business days before executing a contract with the provider.~~

### **Section 675.150 (Provider's Relationship with District)**

#### **Comment**

All three commenters took issue with the existing statement in Section 675.150(b), which acknowledges that districts may need to limit the number of providers that can use space in district facilities and mentions providers' cost of services as one factor to use in determining which ones will be accommodated. All believed that, although it may be necessary or even good to limit the number of on-site providers, cost is an inappropriate basis for this decision. They proposed using language based on quality, parental preference, and/or past performance instead. A related comment advocated requiring districts to treat SES providers in the same way as all other groups that are permitted to use district facilities.

#### **Analysis**

This rule requires that districts select the providers to be accommodated using "an equitable selection process that considers the provider's cost of services and other reasonable administrative and operational criteria consistent with criteria generally used by the district in the selection of contractors".

We agree that districts would be well-advised to take parental preferences into consideration in determining which providers could use district facilities. However, writing a rule to require that they do so is not feasible, because ISBE would then have to set requirements for how much weight districts would have to give those preferences and how they would provide evidence of that consideration. ISBE staff would, in turn, have to review every district's documentation and determine in each case that an appropriate decision-making process had taken place. Further, the negotiation of contracts, which include program costs that reflect occupancy expenses,

frequently occurs before the annual enrollment period, making it questionable *which* parents' preferences should be honored.

Because a given district's capacity may not be sufficient to accommodate all SES providers, it would not be logical to require that districts allow all providers to use district facilities if they allow any other outside groups to do so. Indeed, the need to choose among providers in such situations gave rise to this rule in the first place, and the overriding point is that the district should apply the same criteria to the entire group of providers from which it must choose.

Without belaboring the appropriateness of focusing on cost among these criteria, we agree that it is not necessary to mention it specifically in the rule. Instead, the rule can be made more generic while still retaining the original point.

### **Recommendation**

Section 675.150(b) should be revised to indicate that districts are to use an equitable selection process that "considers ~~the provider's cost of services and other~~ reasonable programmatic, administrative, and operational criteria consistent with criteria generally used by the district in the selection of contractors."

### **Section 675.175 (Timetable for Implementation of the Program)**

#### **Comment**

Concern was expressed with respect to state oversight of school districts that are also providers of SES, due to the desire for other providers to be on a "level playing field" with these districts. It was stated that state review of districts' practices has come so late that no consequences follow for districts that are thought to be influencing parents' choices. Several of the commenters focused on the desirability of strengthening the parental notification requirements set forth in this Section. These individuals noted that very low numbers of students had enrolled in SES in some districts and considered this to mean that the notice provided to parents had not been adequate. It was advocated that ISBE institute a formal appeals process to be available to parents so they could notify ISBE and obtain assistance if there were problems. Further, ISBE should confirm that districts' notice materials are timely and understandable to parents, including those with native languages other than English, and verify that districts are making good-faith efforts to raise awareness of the SES program among families with eligible children. Districts should also be required to secure feedback on their notification letters from parents. ISBE should be empowered to require corrective action based on either inadequate outreach to parents or enrollment levels that are lower than expected.

It was pointed out that both the spirit of NCLB and guidance issued by the U.S. Department of Education encourage additional outreach efforts beyond the required minimum. Accordingly, it was proposed that each district be required to provide ISBE with a brief marketing plan along with the notification letter for review. This document would outline the district's plans for parent fairs, posters, public service announcements, newsletters, and other strategies. Finally, ISBE should audit any districts that do not use all their SES funds, and corrective action should be required if the failure to expend the funds is determined to be due to lack of parental notification. Required corrective actions might include the use of certified mail in subsequent years, use of the funds for summer school, and precluding districts from using left-over SES funds as part of their overall Title I funding pool.

### **Analysis**

As Section 675.175 makes clear, districts' notification letters are subject to annual review and approval. Their content is controlled by the requirements of NCLB, and an acceptable sample is furnished by ISBE. Readability is an aspect that is checked when the ISBE sample is not used, based on an approach that assigns a grade-level equivalent to the language of the notice. The agency is also working on developing versions of the sample letter in Spanish and other languages. However, it should be noted that NCLB does not require that notification be provided in languages other than English, and we conclude that NCLB Section 1116's call for this to be done "to the extent practicable" is probably an acknowledgment of the challenges districts face as well as the difficulty that state agencies would have in reviewing and approving versions in multiple languages.

Although there is currently no formal "appeal" mechanism in place for parents to use, it is not difficult or unusual for parents to contact ISBE when they believe they should have been included in a district's notification. ISBE staff members already routinely follow up to determine what has occurred, and they report that it is rare to find that the district's efforts should be faulted. In fact, most of these issues arise from other causes. For example, some parents have moved and failed to give their school districts their new addresses, resulting in notification that does not reach the intended recipients. In other instances, the parents are not fully aware of the eligibility criteria and are actually not among those who were required to be notified. Confusion also can arise from misinformation passed among friends and neighbors.

In any case, when the staff has determined that further action by a district is needed in order to remedy an error, there has been no question that the district is required to take whatever steps are needed. District staff members tend to be embarrassed rather than obstructive. Fortunately, these problems are most often detected during or shortly after the enrollment period, so it is easily possible to enroll students who should have been included, without the necessity for adding a summer session.

While it might seem a good monitoring strategy to assume a certain level of participation and hold districts to that, this would be unworkable from a regulatory standpoint. The size of a district and the socio-economic make-up of the student body are two obvious factors that influence SES enrollment, but elementary versus high school grades, the urban or rural setting, and the availability of on-site providers versus off-site ones also all make a difference in eligible families' tendency to enroll their children. Because of the number and complexity of these factors, there is no way for ISBE to determine how many children "should" enroll in SES in any given district. Without a justifiable basis for arriving at such a figure, we would be unable to treat that level of participation as a requirement.

Requiring that each district submit a marketing plan for its outreach and notification efforts implies that ISBE staff would review all these to determine whether they are acceptable. This is not feasible, and it would also be pointless for at least the districts that do spend all their SES funds without being able to serve all the eligible students. As to the failure to expend the total amount, it should be noted that it is possible for a district to serve all eligible students and still have money left over. ISBE does expect districts to be able to document their processes of notification and possibly to establish another enrollment period if that appears needed in light of the amount of unexpended funds.

In summary, we do acknowledge that appropriate communication is critical to the participation of eligible students in SES, and we certainly understand advocates' and providers' concern for any actions that might curtail families' ability to take advantage of these services. Further, we do not believe ISBE's authority for monitoring, auditing, and enforcing these requirements needs to be

elaborated on, because it flows from NCLB. In other words, ISBE does not need to use rules to give itself authority it already has. Finally, if future actions indicate that more stringent notification requirements are needed, or that explicit or separate penalties are warranted, we can revisit this rule and strengthen it in direct response to specific problems that are identified.

Some of the comments discussed above indicate that the point of ISBE's review of notification letters is not evident from the current language of the rule. This can be remedied by explicitly linking that review to the requirements of NCLB.

### **Recommendation**

The proposed new last sentence of Section 675.175(a) should be amplified to state that, "Each district's notification and selection form must be approved by the State Superintendent of Education annually to ensure that it includes the material required by Section 1116(e)(2)(A) of NCLB and, to the extent practicable, is written in language that will be understandable to parents."

### **Comment**

With regard to the deadline established in the introductory paragraph of Section 675.175 for each district's initial enrollment period each year, it was suggested that the existing rule be changed to "no later than 60 days after the first day of school or 60 days after the district's receipt of notification from ISBE as to its status, whichever occurs sooner later". In addition, it was proposed that the window during which notification letters must be distributed (subsection (a)(3)) be expanded from four weeks prior to the close of the initial enrollment period to six weeks prior, in order to maximize the notification timeline.

### **Analysis**

If the enrollment deadline were set according to which of the two events occurs *sooner*, districts could conceivably be required to conduct enrollment before receiving notice from ISBE that they were required to offer SES. That is, reversing this rule would be problematic in unfortunate situations where the school year starts before a school's status is known. Such circumstances are not unknown, and they are outside districts' control, and this was the reason for allowing a reasonable and uniform amount of time after the *later* of these two events. However, the concern that parents should have sufficient time in which to consider their choices and make an informed decision is valid. A revision to subsection (a)(3) can be made to focus more appropriately on an adequate minimum amount of time.

### **Recommendation**

Section 675.175(a)(3) should be revised to state:

- 3) This notification shall be distributed in such a way as to reach parents no sooner than four weeks and no later than two weeks prior to the close of the district's initial enrollment period, and shall inform parents regarding all the approved providers that will be serving the schools attended by their respective students.

### **Comment**

One commenter recommended changing the 30-day timeframe for beginning to provide services after a district delivers a list of students and a completed contract to 45 business days and defining conducting the initial assessment as part of the provision of services.

### **Analysis**

No rationale was presented for this suggested change, so we cannot say why 30 days would not be sufficient time in which to begin a program. A change to 45 *business* days would represent a doubling of the time available to SES providers, and we do not agree that this is justified. This existing rule was put in place in response to a specific complaint about delays in services. Rather than defining the initial assessment as the point where the provision of services begins, which could lead to even longer delays in the start of tutoring, we think it preferable to clarify that the actual provision of tutoring must begin within the specified time. In view of the fact that providers have sought the opportunity to serve these students, we know of no reason why they should not be prepared to move forward promptly once the districts have done their part.

### **Recommendation**

The first sentence of Section 675.175(c) should be revised as shown below.

- c) No later than 30 days after the district's delivery to the provider of a student list and fully executed contract, each school district shall verify that each provider with which the district has executed a contract has begun the provision of tutoring services to the students whose families chose that provider.

### **Section 675.210 (District Program Cost)**

#### **Comment**

Noting with approval the requirement in Section 675.240(b)(3) for 60 percent of SES funds paid to providers be used for either direct program expenses or occupancy expenses, one commenter proposed several additional items that should be counted as direct program costs. These included quality control and related transportation; transportation and storage of materials, including rental of facilities for storage; district reporting costs not covered by State-mandated reporting costs; and communication costs directly related to site-level services. Another objected to the "restrictive" categories of cost, stating that it is not ISBE's role to determine which items of cost can be allocated to the provision of services and which cannot. Reference was made to federal guidance providing that "the actual cost of services is simply the amount that a provider charges for services."

#### **Analysis**

Although these comments were made in connection with Sections 675.230 and 675.240, they relate chiefly to Section 675.210, which does not form part of the current rulemaking and therefore is not available to be changed in any substantive way now that the opportunity for public comment has passed. In addition, it should be borne in mind that Section 675.210 establishes four broad categories of expenses that may be included in the calculation of the "district program cost". These include direct program expenses, occupancy expenses, curriculum development expenses, and administrative and general expenses. Each of these broad categories in turn is made up of specific cost elements that are listed, and each list concludes with an item for "Other". This last category can be used by providers to capture legitimate items of cost such as those outlined by this commenter. We do not believe there is any need to modify Section 675.210 to accommodate all the additional specific examples that might be relevant.

Further, the matter of ISBE's approach to defining actual costs has been debated and analyzed exhaustively during the earlier rulemakings on SES, and that discussion does not need to be repeated in detail here. To reiterate the statement of ISBE's position that was expressed when Part 675 was originally adopted, "While we appreciate the perspective from which these

comments originate, we do not believe the commenters are correct in their assertion that their actual cost is whatever they determine they will charge. We would be remiss in our responsibility to school districts and students if we were to excise the various requirements for financial accountability from these rules.” The U.S. Department of Education is aware of the cost-related content of Part 675, and we have no indication that this approach is inconsistent with USDE’s expectations.

**Recommendation**

No change is needed in response to these comments.

**Section 675.230 (Cost Reports of Actual Costs);  
Section 675.240 (Establishment of Contract Amount and Payment Provisions)**

**Comment**

It was noted that Section 675.230(a) would now establish September 30 as the deadline for cost reports and that Section 675.240(e) permits a district to withhold 20 percent of the amount payable until the provider furnishes that report. For a program ending in January or February, it was stated to be unreasonable to make the provider wait six or seven months for the remainder of the amount due. Acknowledging that the rule had been intended to protect districts against overpayment, the commenters suggested replacing this provision with one requiring repayment by providers when applicable.

**Analysis**

The proposed change in the due date for cost reports is intended to be helpful to providers by accommodating those with later ending dates for their respective fiscal years. That is, the current requirement for reporting within 60 days after the conclusion of services is impractical for many to meet. Staff have routinely cooperated with providers that have been unable to meet the reporting deadline due to the unavailability of final information, and this rule can be refined even further, in order to avoid the necessity for provider representatives to request extensions. (A provider that is able to report its district program cost sooner than September 30 would still be able to do so, and this would shorten the period of withholding in some cases.)

We believe that the potential for withholding a portion of the amount due is useful because of the incentive it provides for timely completion of paperwork and other wrap-up at the end of the program year. However, we also recognize that the end of a provider's fiscal year, and thus the availability of the cost report and the agreed-upon procedures report, will often result in a protracted period of waiting for the final payment. A suitable compromise would be to maintain the authorization for withholding but limit it to 10 percent of the amount due.

**Recommendation**

The first sentence of Section 675.230(a) should be revised as shown below:

- a) Each provider shall report to the State Board of Education, no later than September 30 following the end of the SES reporting period or 45 days after the end of the provider's fiscal year, whichever is later, and using a form provided by ISBE, the provider's district program cost for each district the provider served.

The first sentence of Section 675.240(e) should also be revised:

- e) If permitted in the provider's contract with the district, the district may withhold no more than 10 ~~20~~ percent of the total amount payable to the provider until such time as....."

ILLINOIS REGISTER

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STATE BOARD OF EDUCATION

NOTICE OF ADOPTED AMENDMENTS

TITLE 23: EDUCATION AND CULTURAL RESOURCES

SUBTITLE A: EDUCATION

CHAPTER I: STATE BOARD OF EDUCATION

SUBCHAPTER o: MISCELLANEOUS

PART 675

PROVIDERS OF SUPPLEMENTAL EDUCATIONAL SERVICES

SUBPART A: GENERAL PROVISIONS

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675.10	Purpose and Scope
675.20	Definitions
675.30	Code of Ethics
675.40	Programmatic Requirements
675.50	Application Requirements
675.60	Application Process
<u>675.65</u>	<u>Mid-Year Changes</u>
675.70	Reporting Requirement
675.80	Retention of Records; Access to Premises
675.90	Evaluation of Providers' Performance, Providers' Status, Sanctions, and Removal
675.100	Public Information
675.110	Removal When No Services Offered
675.150	Provider's Relationship with District
675.175	Timetable for Implementation of the Program

SUBPART B: FINANCIAL REQUIREMENTS

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675.200	Financial Framework for SES
675.210	District Program Cost
675.220	Non-Reimbursable Expenses and Revenue Offsets
675.230	<del>Cost</del> <u>Reports of Actual Costs</u>
675.240	Establishment of Contract Amount and Payment Provisions
675.245	Basis for Invoices and Payments
675.250	Appeals

675.APPENDIX A	Calculation of Effect Size
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# ILLINOIS REGISTER

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## STATE BOARD OF EDUCATION

### NOTICE OF ADOPTED AMENDMENTS

675.APPENDIX B    Evaluation Rubric  
675.APPENDIX C    Decision Matrix

**AUTHORITY:** Implementing Section 1116(e) of Public Law 107-110, the No Child Left Behind Act of 2001 (20 USC 6316(e)) (34 CFR 200.45 through 200.48), and authorized by Section 2-3.6 of the School Code [105 ILCS 5/2-3.6].

**SOURCE:** Emergency rules adopted at 29 Ill. Reg. 9516, effective June 17, 2005, for a maximum of 150 days; emergency expired November 13, 2005; adopted at 29 Ill. Reg. 19942, effective November 23, 2005; amended at 30 Ill. Reg. 14325, effective August 18, 2006; amended at 32 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.

#### SUBPART A: GENERAL PROVISIONS

##### **Section 675.30 Code of Ethics**

~~In addition to all other requirements imposed by law, all providers of SES must abide by a code of ethics consisting of the following requirements:~~

- a) Providers must accurately and completely describe services to consumers in terms that are easy to understand. Providers' statements regarding the number of hours of service offered in their programs must match the number of hours for which districts have contracted. That is, a provider shall not charge a district for a portion of the hours of service offered and indicate that the remaining hours of service are to be provided free of charge.
- b) Providers must create and use promotional materials and advertisements that are consistent with their approved applications and free from deception. Upon request, providers shall submit all promotional materials and advertisements related to the SES program to ISBE or the school districts in which they wish to serve.
- c) Providers must not misrepresent to anyone the location of a provider's program or the approval status of a program. If the location of services is contingent upon a minimum student enrollment or the approval of a district, the provider shall indicate the applicable contingencies in its marketing materials.
- d) Providers must not publicly criticize or disparage other providers.

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- e) Providers must not distribute a district enrollment form that has the selected provider's name pre-printed as part of the form. Providers must not distribute enrollment forms with directions for how to complete the forms.
- f) Providers must maintain a system of addressing consumer grievances and concerns and must immediately report any grievances to both the district and ISBE.
- g) Providers must not compensate district employees in exchange for access to facilities, to obtain student lists, or for any illegal purpose. Providers must not solicit or accept an exclusive arrangement with any district or school (including, but not limited to, an exclusive right to conduct in-school assemblies or other marketing activities).
- h) Except as otherwise provided in this subsection (h), district District personnel may be hired for instructional purposes only, except that district. District personnel hired for instructional purposes shall not recruit students to a provider's program, engage in marketing activities on behalf of a provider, distribute or collect enrollment forms, or otherwise promote or encourage students to enroll in a provider's program.
  - 1) District personnel without responsibility for or involvement in the district's administration of SES may be employed to perform solely clerical functions having no relationship to the marketing of a provider's program or the recruitment of students. District personnel hired for instructional purposes shall not recruit students to a provider's program, engage in marketing activities on behalf of a provider, distribute or collect enrollment forms, or otherwise promote or encourage students to enroll in a provider's program.
  - 2) Where a school district or a school is also a provider of SES, an individual may be employed as coordinator or site manager for the SES program it provides if the individual will have no other responsibilities apart from oversight and management of that SES program, which may include marketing and recruitment, subject to the following additional requirements.

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- A) The individual employed by the district for this purpose shall not present marketing or recruitment information on any occasion unless all other providers approved for the schools served are offered the same opportunity to present information or recruit students.
  - B) The district shall ensure that the individual has no greater access to parents and students at provider fairs, school assemblies, and other, similar occasions than is afforded to all other providers. "Access" means the amount of speaking time available, the space used, and any other resources allocated to providers.
  - C) The individual's duties related to the SES program for which the district is the provider shall be entirely distinct from those of any other district employee who performs oversight with respect to the provision of SES generally, such as serving as the district's liaison to all SES providers within a school or schools.
- i) Each restriction applicable to a school district employee under this Section shall apply equally to a member of any governmental or nonprofit organization formed to support or advise a particular school in which the provider seeks to offer services.
  - j) Each parent of an eligible student who is hired by a provider must have a written job description and must be compensated on the same basis as all other employees of the provider who perform similar work. No parent may receive any commission or other benefit related to the enrollment of his or her child in a provider's program, nor may a parent be subject to any employment action by the provider on account of the parent's selection of an SES program for his or her child.
  - k) Providers must not make payments or in-kind contributions to a district, exclusive of customary fees for facility utilization.
  - l) Providers must not offer or advertise economic incentives or gratuities of any kind to parents or students to solicit them to select the provider for SES. Providers may not offer any incentives to potential students in the course of informational

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sessions, but may offer promotional materials of negligible value, such as pencils, balloons, or magnets.

- m) During the provision of SES, providers may offer only nominal rewards to students for achievement of program milestones or objectives that cannot be attained through attendance alone, or for above-average attendance when given after the mid-point of the provider's program. Providers shall not spend more than \$50 per pupil on rewards, exclusive of rewards that consist of materials and equipment used directly in the provision of services.
- n) Providers must not encourage or induce students or parents to switch providers once enrolled.
- o) Providers must not attempt to influence or bias parents when performing an evaluation of the provider's services and achievement of the objectives in the student's Individual Learning Plan.
- p) A provider shall not use information provided by parents of students served under this Part for any commercial purpose without securing the parent's prior written consent for the intended use of the specified information, except that a provider may use parental contact information to communicate about SES with the parents of students served by that specific provider in any prior year.
- q) School district personnel shall treat all providers of SES impartially. Whether or not the employing district or school is a provider, school personnel shall not:
  - 1) promote or disparage specific SES providers;
  - 2) distribute SES enrollment forms that include a pre-printed provider's name;
  - 3) obstruct parents in exercising their right to select an SES provider;
  - 4) seek to influence parents' choices among SES providers;
  - 5) alter or destroy registration forms submitted by parents without specific authorization from the parents; or

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- 6) encourage students to drop out of an SES program or switch providers once enrolled.

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

**Section 675.40 Programmatic Requirements**

Each provider's SES program shall be conducted at or from a location other than a private dwelling and:

- a) include an appropriate, nationally recognized diagnostic assessment for use in identifying students' weaknesses and achievement gaps upon which to build an individual student plan and learning goals, except that, for the 2005-06 reporting period, a diagnostic assessment other than a nationally recognized assessment may be used by providers approved prior to July 1, 2005, upon notification to ISBE;
- b) use targeted remediation/instruction that is aimed at addressing the individual skill gaps revealed during the assessment and that is based upon an individual learning plan;
- c) include a post assessment linked to the diagnostic assessment to determine whether student gains occurred and to further develop a plan for either re-teaching skills or identifying new skills for instruction;
- d) align with the Illinois Learning Standards set forth at 23 Ill. Adm. Code 1, Appendix D, in the area of reading and/or mathematics;
- e) be consistent with the academic program a student experiences in the regular school day; ~~and~~
- f) use instructional practices that are high-quality, research-based, and specifically designed to increase students' academic achievement; and
- g) assign as tutors only individuals who hold or are qualified to hold the letter of approval that is required for service as a paraprofessional in a program supported with federal funds under Title I, Part A, of the ESEA, as described in the rules of the State Board of Education at 23 Ill. Adm. Code 25.510 (Paraprofessionals;

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Teacher Aides), provided that, in the case of tutors who reside outside the United States, the requirement for United States citizenship or legal presence in the United States shall not apply.

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

**Section 675.50 Application Requirements**

Each application for approval to provide SES in Illinois shall consist of the components described in this Section.

- a) A summary of services that indicates:
  - 1) the subject areas available (i.e., reading and/or mathematics);
  - 2) the grade levels served;
  - 3) the total program hours per student, provided that, for any program proposing fewer than 30 instructional hours per subject, the applicant must supply specific evidence that the program has resulted in increased student achievement in that subject, including verification from school district administrators in which the program has been previously provided;
  - 4) the proposed locations of service delivery;
  - 5) the minimum number of students required by the eligible applicant in order to offer SES to a district and an indication of any districts in which that minimum will apply to each site served rather than to the district in the aggregate ~~the maximum number, if any, for each proposed district;~~
  - 6) whether the eligible applicant can provide services to students of limited English proficiency and, if so, the languages in which the eligible applicant provides instruction and the maximum number of LEP students the eligible applicant can serve in each district;
  - 7) whether the eligible applicant can provide services to students with disabilities and, if so, the accommodations or modifications the eligible

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applicant can offer and the maximum number of students with disabilities the eligible applicant can serve in each district;

- 8) the time of day and months during which SES will be offered;
  - 9) the ratio of instructors to children, as determined by the provider; and
  - 10) the districts the eligible applicant seeks to serve.
- b) A rationale for the eligible applicant's SES program, including:
- 1) Evidence that the program complies with Section 675.40 of this Part; and
  - 2) Evidence of effectiveness that complies with either subsection (b)(2)(A) or subsection (b)(2)(B) of this Section.
- A) General Method
- i) Evidence that the program proposed in the application has a positive impact on students' achievement in reading and/or math, particularly for low-income, underachieving students, as demonstrated by scores on the State assessment or on a nationally recognized assessment; and
  - ii) At least five but no more than ten letters of reference from previous clients (families, districts, or teachers) offering testimonial information on the positive impact of the program proposed in the application and including contact information, starting and ending dates of service provided, and school and district names for each reference.
- B) Alternate Method
- i) Evidence that the eligible applicant has a minimum of three years' experience serving youth in the community where the eligible applicant intends to offer SES, through activities such as tutoring, mentoring or other extracurricular programs;

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- ii) Evidence that the curriculum to be used by the eligible applicant has been demonstrated to have a positive impact on students' achievement in reading and/or math, particularly for low-income, underachieving students, as demonstrated by scores on the State assessment or on a nationally recognized assessment;
  - iii) At least five but no more than ten letters of reference from previous clients (families, districts, or teachers) offering testimonial information on the positive impact of the youth services provided by the eligible applicant and including contact information, starting and ending dates of service provided, and school and district names for each reference; and
  - iv) An agreement to limit services to no more than 200 children during the first two years of SES.
- c) The specific procedures to be used and frequency of reports of student progress to teachers, district staff, and parents/families (including a description of how information will be provided to parents and families in a format and language they can understand).
- d) A description of the qualifications of instructional staff, including such resumes and other information on qualifications as ISBE may require. If the applicant intends to assign tutors who reside outside the United States, the application shall identify their countries of residence and, for each of those countries, the national and either regional or local law-enforcement authorities from which fingerprint-based checks of criminal history records will be obtained that will be comparable to those required under Section 10-21.9 of the School Code [105 ILCS 5/10-21.9]. Individuals residing in countries where checks of these types are not available shall not be assigned as tutors.
- e) Proof of liability insurance in amounts deemed sufficient by ISBE to protect the district and ISBE in light of the number of students to be served by the provider.
- f) Evidence that the eligible applicant possesses a sound management structure.



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- g) Evidence that the provider has adequate financial, organizational and technical resources to administer the proposed program.
- h) Proof of legal authority to conduct business in Illinois.
- i) Information on the eligible applicant's estimated per-pupil ~~district~~ program cost, calculated as set forth in Section 675.210 of this Part for a sample or hypothetical district for which the provider assumes cost factors to be representative. If the provider's costs will vary based on the number of students enrolled, costs must be provided for various enrollment ranges. Providers must specify the assumptions upon which occupancy costs are shown for services in district facilities.
- j) Such certifications, assurances, and/or additional information as ISBE may require in order to verify any information reported by the eligible applicant or otherwise to fulfill its duties with respect to the administration of SES.

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

#### **Section 675.60 Application Process**

- a) Applications for approval as SES providers will be accepted only from eligible applicants and only during the two application periods established by the State Superintendent of Education each fiscal year, unless an emergency application period is needed for a particular school district to enable students to continue receiving services through the remainder of a school year as required by NCLB. Each provider's approval shall take effect beginning with the fiscal year after the year in which the application was submitted, unless the State Superintendent makes an exception to account for circumstances at ISBE that have led to a delay, resulting in approval of a provider's application in the fiscal year after its original submission.
- b) Upon receipt of an application, ISBE will provide it to the district in which an eligible applicant seeks to serve for the district's general review and comment, but in particular for an assessment by the district as to whether the program is consistent with the academic program a student experiences during the regular school day. For providers seeking to serve all eligible districts, ISBE may elect to provide the application to a group of representative districts for review. The

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district and ISBE may seek additional information and clarifications from the eligible applicant. These clarifications will then be made a part of the provider's application.

- 1) If an applicant fails to respond to a request for additional information or clarification, ISBE shall, upon 14 days' written notice, declare ~~the an~~ application inactive. If an application is declared inactive under this subsection (b)(1), the applicant shall be required to submit an entirely new application using the then-current application form and within an application period established by the State Superintendent for a subsequent fiscal year.
- 2) If attempts to clarify or revise an application fail to result in its approval by the end of the fiscal year for which it was submitted, it shall be declared inactive and a new application shall be required.
- c) Applications meeting the requirements set forth in Sections 675.40 and 675.50 of this Part and all other requirements of NCLB will be approved, provided that, when applicable, ISBE shall also consider factors that have led to any other state's revocation of, or refusal to renew, a provider's approval. ISBE may reject an application if this information indicates that the provider violated any applicable law or regulatory requirement, failed to demonstrate the program's effectiveness, or otherwise acted in a manner contrary to the intent of NCLB. If an application is rejected, neither the eligible applicant nor any related organization shall be eligible to re-apply during the following 12-month period.
- d) If a provider is removed from the State-approved list for any reason other than as described in Section 675.110 of this Part, the provider and any related organization shall be ineligible to re-apply for any of during the following three fiscal years ~~five-year period~~, except that ~~this period of ineligibility shall not apply to~~ a provider that is a public school or school district that has its eligibility restored by being removed from "improvement status" shall be eligible to re-apply for the fiscal year after the year of its removal from that status.

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

**Section 675.65 Mid-Year Changes**

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Each provider shall implement its SES program in accordance with its approved application. Changes in any aspect of an approved program shall require prior written approval from ISBE. Applications for approval of changes shall be submitted in a format specified by the State Superintendent of Education. Except as otherwise provided in this Section, approved changes shall take effect beginning with the fiscal year after the year during which they are approved.

- a) When a provider receives approval to serve an additional district after the beginning of a fiscal year, that district may either offer that provider's program as a choice for parents or wait until the next enrollment period or the next fiscal year before doing so.
- b) Approved changes in a provider's program for a district, such as changes in the student/teacher ratio or grade levels to be served, may be placed into effect without waiting for the next fiscal year if the district agrees in writing to the changes as of a specified effective date. The provider shall provide a copy of the district's written agreement to the State Superintendent within 10 days after receipt of the agreement.
- c) If circumstances change in a country to the extent that a previously approved method for obtaining checks of criminal history records for prospective tutors cannot be implemented (see Sections 675.50(d) and 675.150(f) of this Part), the affected provider shall seek approval for the necessary change in its application and shall implement the newly applicable method prior to assigning tutors who reside in that country.

(Source: Added at 32 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 675.70 Reporting Requirement**

- a) Each provider shall be required to use a tracking system for student enrollment and progress developed by ISBE. This ~~Unless otherwise agreed to between the district and a provider, this~~ tracking system shall also be used to determine the amount billable to the district for the provider's services.
- b) Within 60 days after a provider's conclusion of SES for the SES reporting period, the provider shall submit a report to ISBE including ~~and to each district in which the provider operates. This report shall include:~~ the information identified in this subsection (b), which shall be submitted as specified by the State Superintendent:

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- 1) information on the students served;
  - 2) details of any complaints received from teachers or parents;
  - 3) the percentage of students meeting the academic goals set out in their Individual Learning Plans;
  - 4) updates and revisions to any information set forth in the provider's approved application (including the submission of all information required by Section 675.50 of this Part not previously reported by the provider); and
  - 5) an assurance that all other information set forth on the provider's approved application, as may be updated from time to time, remains true and correct.
- c) Upon the request of any district served by a provider, the provider shall, within 10 days after receipt of the district's request or after the provider's submission of the report to ISBE, whichever is later, furnish to the district the information specified in subsections (b)(2) and (3) of this Section as applicable to that district. However, a provider shall not be obligated to supply this information for any SES reporting period more than one year after the end of that period.
- d) ISBE may request additional information from a provider that may be necessary for ISBE to verify any information reported by the provider or otherwise to fulfill its duties with respect to the administration of SES.
- e) ~~d~~ Providers failing to submit timely and complete reports shall not be included on the list of eligible providers for the following SES reporting period.

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

**Section 675.150 Provider's Relationship with District**

- a) A district may impose reasonable administrative and operational requirements through its agreements with providers that are consistent with requirements

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imposed generally on the district's contractors or requirements set by ISBE and that do not limit educational options for parents.

- b) Districts may, but are not required to, allow the use of district facilities for SES. If a district determines that one or more facilities have a limited capacity to accommodate multiple providers for such reasons as limited available classroom space or a limit to the district's administrative capacity to oversee multiple contractors, the district may select those providers using an equitable selection process that considers ~~the provider's cost of services and other~~ programmatic, administrative, and operational criteria consistent with criteria generally used by the district in the selection of contractors.
- c) A school district may, with notification to the State Superintendent of Education, terminate the services a provider is providing to a particular student if the provider is unable to meet the student's specific achievement goals within the timetable set out in the original agreement between the district and the provider.
- d) For any other termination of services by a school district, the district shall provide prior written notification to the State Superintendent of Education if the district intends to terminate the services of a provider throughout the district or at a particular school.
  - 1) The State Superintendent of Education shall require information from both the provider and the district to determine the validity of the complaint and to determine whether a corrective action plan should be implemented to address the complaint.
  - 2) Upon receipt and review of information from both the district and provider, the State Superintendent of Education shall determine whether the district should be allowed to proceed with the termination.
- e) No later than 30 days after the district's delivery to the provider of a district-approved list of students and a fully executed contract, a provider shall begin the provision of services to students in that district. See also Section 675.175 of this Part.
- f) Each district shall ensure that the requirements of Section 10-21.9 of the School Code are met with respect to any tutor assigned to the district's students under the

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auspices of a provider of supplemental educational services. In the case of any tutor who resides outside the United States, the district's contract with the provider employing the tutor shall require that the provider request fingerprint-based checks of criminal history records to be performed by the national and either regional or local law-enforcement authorities identified in the provider's approved application.

- 1) The provider shall identify for these authorities the regional superintendents of education to whom results of the records checks are to be sent. Any information concerning the record of conviction and identification as a sex offender of any such employee obtained by the regional superintendent shall be promptly reported to the president of the appropriate school board or school boards. [105 ILCS 5/10-21.9(f)]
- 2) If law enforcement authorities decline to correspond with regional superintendents and indicate that they will respond only to the requesting provider, the provider shall furnish the presidents of the appropriate school boards with the results of all completed background checks within five business days after receiving those results.

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

**Section 675.175 Timetable for Implementation of the Program**

The requirements of this Section shall pertain to a district's initial enrollment period for SES in each school year. Districts are strongly encouraged to undertake parental notification and student enrollment in advance of the timelines set forth in this Section. No provision of this Section shall be construed to limit a district's ability to offer multiple enrollment periods during the course of a school year. The deadline for each district's initial enrollment period shall be no later than 60 days after the first day of school or 60 days after the district's receipt of notification from ISBE as to its status, whichever occurs later.

- a) In any school year when the performance of a district's schools obligates the district to offer supplemental educational services, the district shall distribute to parents of eligible students a notification to this effect, accompanied by a selection form for use by the parents. Each district's notification and selection form must be approved by the State Superintendent of Education annually to ensure that it includes the material required by Section 1116(e)(2)(A) of NCLB

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and, to the extent practicable, is written in language that will be understandable to parents.

- 1) No later than three weeks prior to the date on which the district plans to distribute its notification to parents, each district shall submit to the State Superintendent either:
    - A) the intended notification and the intended enrollment form, if separate; or
    - B) an assurance that its approved notification and enrollment form from the previous year will not be changed other than with respect to dates or available providers.
  - 2) Within two weeks after receipt of a district's intended notification materials or assurance, the State Superintendent shall either approve the communication or specify areas of insufficiency that must be corrected before the notification can be released.
  - 3) This notification shall be distributed in such a way as to reach parents ~~no~~ ~~sooner than four weeks and~~ no later than two weeks prior to the ~~close of~~ ~~deadline for~~ the district's initial enrollment period, and shall inform parents regarding all the approved providers that will be serving the schools attended by their respective students.
- b) Prior to negotiating contracts with districts, each provider shall submit to ISBE, in the form specified by the State Superintendent, good-faith estimates of its per-pupil district program costs, as specified in Section 675.240 of this Part and based in each case on the approximate number of students expected to enroll in the provider's program. The State Superintendent shall make these estimates available to districts without delay. As soon as reasonably practicable, but in no event later than 45 days after the deadline for a ~~the~~ district's initial enrollment period, the district shall submit to each provider a district-approved list of students whose parents have selected that provider. The district shall also use its best efforts to deliver a fully executed contract to each provider, based on the provider's estimated per-pupil district program cost, within this timeframe.

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- c) No later than 30 days after the district's delivery to the provider of a student list and fully executed contract, each school district shall verify that each provider with which the district has executed a contract has begun the provision of tutoring services to the students whose families chose that provider. If any provider has not begun to provide services, the district shall notify the parents of the affected students to this effect and offer the parents a one-week opportunity to choose another approved provider. In any such instance, the district shall conclude any needed contractual revisions within one further week and ensure that the new provider begins serving each affected student no later than two weeks after receiving the applicable contract and the list of students. The other provisions of this subsection (c) notwithstanding, a district that has collected indications of parents' second choices may assign students to the programs selected and notify parents that this has occurred.

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

SUBPART B: FINANCIAL REQUIREMENTS

**Section 675.230 Cost Reports of Actual Costs**

- a) ~~For each SES reporting period beginning on or after July 1, 2005, each~~ Each provider shall report to the State Board of Education, no later than September 30 following the end of the 60 days after the provider's conclusion of services for that SES reporting period or 45 days after the end of the provider's fiscal year, whichever is later, and using a form provided by ISBE, the provider's district program cost for each district the provider served. The cost report shall also indicate the payments received or invoiced to the district for the SES reporting period, as well as the difference between these payments and the district program cost.
- 1) Each provider shall identify all transactions with related organizations and the actual cost of each transaction.
  - 2) Each non-governmental provider serving more than 50 students within a district must engage an independent Licensed Certified Public Accountant (CPA) who is a member of the American Institute of Certified Public Accountants to perform agreed-upon procedures on its reported information. An agreed-upon procedures report must be submitted with



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the district program cost report required by this subsection (a). The agreed-upon procedures must include the following.

- A) Obtain the general ledger trial balance as of the reporting date and agree or reconcile the balances in the trial balance to the cost report;
- B) Inquire of members of management who have responsibility for financial and accounting matters concerning:
  - i) whether the cost report has been prepared using the accrual basis;
  - ii) the procedures for recording, classifying, and summarizing transactions and accumulating information;
  - iii) the method used to allocate curriculum development and administrative and general expenses to the district;
  - iv) known transactions with related organizations and whether the actual cost of such transactions was accurately reported; and
  - v) the provider's procedures for identifying non-reimbursable expenses;
- C) Identify and report on results from ~~relationships between recorded amounts and expectations that appear to be unusual by performing~~ the following procedures:
  - i) compare the actual average cost per pupil as shown on the cost report to the average cost per pupil shown in the contract amount with the district, and report on management's explanation for any differences greater than 10 percent; and
  - ii) compare ~~the difference between~~ current-year and prior-year cost results by report line item, and report on

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management's explanations for any differences in line item amounts that exceed 10 percent of the prior year's amounts, or if the total cost for the reporting period exceeds the total cost for the prior year by more than 5 percent; and

- iii) ~~perform additional procedures to respond to unexpected differences;~~

- D) For providers serving more than 200 students in a district, select a sample of program and curriculum and training expenses for source document testing. The sample must be representative of the population and represent no less than 25 percent of the expenses for each category. As a part of testing procedures, perform the following:

- i) ~~verify determine~~ that the provider properly classified costs according to the categories and subcategories set forth in Section 675.210 of this Part, and report on sampled items that were not classified in accordance with that Section;
- ii) ~~verify determine~~ that sampled items are not the expense is not a non-reimbursable expense as defined in Section 675.220 of this Part, and report on sampled items that are non-reimbursable as defined in that Section; and
- iii) ~~verify determine~~ that curriculum development and administrative and general expenses have been allocated to the district in an accurate and consistent manner and in accordance with Section 675.210(b) of this Part, and report on allocations for any sampled items that are not in accordance with that Section; the appropriate allocation method; and

- E) Report on whether, as ~~determined by a part of~~ the procedures performed under subsection (a)(2)(D) of this Section, the sampled items contain ~~cost report contains~~ errors, omissions, inconsistencies, or non-compliance with the cost reporting requirements set forth in this Section, and specify. ~~Specify each~~

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material error, omission, or inconsistency, ~~or non-compliance with this Section.~~

- 3) An agreed-upon procedures report submitted pursuant to subsection (a)(2) of this Section shall indicate whether all elements of the provider's cost report comply with the requirements of this Subpart B. In addition to the specific items to be reported under subsection (a)(2) of this Section, the CPA shall also report on:
- A) any unreconciled differences between the general ledger trial balance and the cost report;
  - B) any cost report that was not prepared on the accrual basis;
  - C) any entries that are not supported by or do not agree with documentation provided by management;
  - D) any cost allocation methods that are not in accordance with the requirements set forth in Section 675.210(b) of this Part; and
  - E) any other material error, omission, inconsistency, or area of non-compliance that comes to the CPA's attention during the course of conducting the agreed-upon procedures required by subsection (a)(2) of this Section.
- b) Each provider shall report the number of students enrolled in the provider's program during each SES reporting period. If a student's services are terminated during the SES reporting period, the student shall be reported in accordance with the percentage of the program completed prior to termination of services. For example, a student who completed 60 percent of the provider's program prior to termination of services should be reported as .6 of a student on the provider's cost report.
- c) All reporting shall be provided on an accrual basis.
- d) ~~All providers on the State approved list as of June 16, 2005 shall report to ISBE, using a form provided by ISBE, the information required by subsections (a) and (b) of this Section for each district the provider served for the period from July 1,~~

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~~2004 through June 30, 2005. This report shall be submitted no later than July 15, 2005, unless an extension of this deadline is granted by the State Superintendent of Education. By October 1, 2005, each non-governmental provider serving more than 50 students within a district shall also submit a letter from a Licensed Certified Public Accountant who provides evidence of meeting the requirements of subsection (a)(2) of this Section, indicating that the information has been reviewed as required.~~

- e) ~~Additional Requirement for New Providers~~  
~~Within 30 days after the closure of the enrollment period within each district served, each newly approved provider must submit to ISBE adjusted estimates of its actual per-pupil cost of service, based upon the number of students enrolled in the provider's program within each district served.~~

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

**Section 675.240 Establishment of Contract Amount and Payment Provisions**

- a) The initial per-pupil contract amount set forth in the provider's contract with a district shall be the lesser of:
- 1) the district's per-child allocation under Part A of Title I of NCLB; or
  - 2) the provider's reasonable estimate of its actual cost of services during the SES reporting period that it seeks to charge to the district pursuant to the contract. ~~This estimate shall be submitted to ISBE on its district program cost report for the preceding SES reporting period.~~
- b) A provider's reasonable estimate pursuant to subsection (a)(2) of this Section shall be established using the four expense categories set forth in Section 675.210(a) of this Part (i.e., program expenses, occupancy expenses, curriculum development expenses, and administrative and general expenses).
- 1) To the extent that any category of expenses in the estimate exceeds the per-pupil amount for the same category set out in the provider's district program cost report, the provider shall itemize the expenses and attach a specific justification for the increase based upon additional expenditures the provider reasonably expects to incur for reasons such as inflation,

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increased labor costs, or budgeted equipment expenditures or for another legitimate business purpose (e.g., additional investment in professional development for staff, increase in profit margins to reflect industry standards).

- 2) An estimate by a provider that will use a district's facilities shall specify the provider's assumptions for any occupancy costs and shall reflect the per-pupil savings the provider reasonably expects to receive, based upon:
  - A) operational savings associated with using the district's facilities;
  - B) the value of real estate provided by the district; and
  - C) the business advantages resulting from access to the district's facilities.
- 3) Except as otherwise provided in subsections (b)(4) and (b)(5) of this Section, at least 60 percent of funds paid to a provider from a district's Title I, Part A, allocation shall be used for either direct program expenses or occupancy expenses.
- 4) Any provider in good standing (with or without reservations) and with student achievement outcomes of "above standards" shall be exempt from the percentage restriction set forth in subsection (b)(3) of this Section, provided that the provider submits all cost estimates and cost reports required by this Part and accurately displays its elements of cost in all instances. The exemption provided by this subsection (b)(4) shall also be available on the same basis to any Web-based provider whose per-pupil district program cost is less than 50 percent of the mean actual cost reported for the prior year for either providers serving the Chicago Public Schools or providers serving all other school districts, as applicable to the district with respect to which the provider desires the exemption.
- 5) A provider whose reasonable estimate for administrative and general expenses is not more than 25 percent of the district's Title I, Part A, allocation per pupil may petition the State Superintendent for permission to spend less than the amount required for direct program expenses and occupancy expenses under subsection (b)(3) of this Section in order to

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allocate increased funds to curriculum development expenses. The petition must be received by the State Superintendent within 20 days after the provider's receipt of notification of its status in accordance with Section 675.90 of this Part and must:

- A) demonstrate that the proposed cost structure will contribute to the increased academic achievement of students served and will allow the provider to deliver a program in accordance with its approved application;
  - B) specify the amount the provider seeks to establish for each of the four expense categories, including the specific cost items the provider is seeking to increase; and
  - C) demonstrate that the amounts specified as required by subsection (b)(5)(B) of this Section are properly attributed to the district in accordance with the cost principles set forth in Section 675.210 of this Part.
- c) If the provider receives benefits from the use of district facilities not accounted for in the provider's assumptions, the provider's reasonable estimate pursuant to subsection (a)(2) of this Section shall be adjusted accordingly.
- d) Prior to executing a contract with a district, a provider may petition ISBE for permission to revise the reasonable estimate provided pursuant to Section 675.50(i) of this Part, which shall be granted if based on administrative requirements imposed by the district that were not reasonably foreseeable when the estimate was submitted. After the execution of a contract with a district, a provider may seek a revision to its reasonable estimate in accordance with its contractual agreement with the district.
- e) If permitted in the provider's contract with the district, the district may withhold no more than 10 ~~20~~ percent of the total amount payable to the provider until such time as the provider reports to ISBE its district program costs, the amount paid by or invoiced to the district, and the number of students enrolled during the SES reporting period to which the contract relates. If the actual cost for the SES reporting period to which the contract relates is less than the amount paid by or invoiced to the district based upon the initial per-pupil contract amount set forth

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in the contract, and provided the contract permits a cost adjustment, the district shall be responsible for paying to the provider only the actual cost of services for the SES reporting period to which the contract relates. The district shall not be liable for actual costs, on a per-pupil basis, that exceed the provider's reasonable estimate established for the relevant expense category in accordance with this Section.

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

**ILLINOIS STATE BOARD OF EDUCATION MEETING**  
**January 16-17, 2008**

**TO:** Illinois State Board of Education

**FROM:** Christopher A. Koch, Ed.D., State Superintendent of Education *CK*  
Darren Reisberg, General Counsel *DR*  
Dr. Linda Tomlinson, Assistant Superintendent *LT*

**Agenda Topic:** Comparison of School Food Service Rules Part 305 and the proposed revisions

**Materials:** Comparison of Nutrition Standards  
Nutrition Standards for Proposed Rules  
Part 305 (current)

**Staff Contacts:** Chris Schmitt, Division Administrator, Nutrition Programs  
Mark Haller, Division Supervisor, Nutrition Programs

**Purpose of Agenda Item**

The purpose of this agenda item is to provide, for the Board's review and discussion, the attached comparison table of the state School Food Service Rules Part 305 and Agency staff's proposed revisions. As noted in the attachments, the Nutrition Programs Division hosted three forums in October and November 2007 to gather feedback from the field on nutrition standards in light of the Illinois School Wellness Policy Task Force Report on Nutrition Standards (the "Report") issued in January 2007. As you recall, ISBE's current rules [Section 305.15(f)] required ISBE to initiate a revision to the food and beverage standards following the release of the Report. ISBE did initiate such a revision earlier this year by discussing the Report and comparing it to Section 305.15. The discussion the Board will be having today surrounds the question of whether and when to move forward with some or all of the specific rule changes recommended by Agency staff.

**Relationship to/Implications for the State Board's Strategic Plan**

Proper nutrition can have a positive impact on student performance. Accordingly, the nutrition rules support the Strategic Plan's goal of fostering literacy and enhancing literacy instruction.

**Expected Outcome(s) of Agenda Item**

No action is requested at this time, though the Board may provide Agency staff with direction in terms of whether and when to move forward with some or all of its recommended rule revisions.

**Next Steps**

To the extent the Board provides Agency staff with direction as to whether and when to move forward with some or all of its recommended rule revisions, Agency staff will act accordingly.



## Comparison of Nutrition Standards: Part 305.15 and the Proposed Revisions November, 2007

The Nutrition Programs Division hosted three forums in October and November 2007 to gather feedback from the field on nutrition standards. Based on those forums, comments received, and the Illinois School Wellness Policy Task Force Report on Nutrition Standards below is a summary of the proposed revisions to School Food Service Rules Part 305. The current and the proposed rules both impact food and beverages sold in participating schools to students in grades 8 and below excluding the reimbursable meal.

The major differences between the current School Food Service Rules and the proposed revisions are as follows:

- Expand requirements to the entire school campus, including the food service area
- Clarifies time requirements to the entire school day including 30 minutes before and after the school day
- Two grade groups (PK-5 and 6-8)
- Implementation occurs school year 2009-2010

The following chart provides a detailed comparison of the food and beverage requirements of the:

- SFS Rules Part 305.15 effective on October 17, 2006 and the
- Proposed Revisions (***bold font~italics***)

Food/Beverage	Pre-K – Grade 8 <b><i>Pre-K – Grade 5</i></b>	<b><i>Grade 6-8</i></b>
Water, unflavored	Non-sweetened, non-carbonated- any serving size	
	<b><i>Unsweetened, non-carbonated any serving size</i></b>	<b><i>Unsweetened, non-carbonated any serving size</i></b>
Water, flavored	Not allowed unless included on the USDA exemption list	
	<b><i>Not allowed</i></b>	<b><i>Not to exceed 25 calories per unit</i></b>
Milk	Flavored or plain whole, reduced fat (2 percent), low fat (1 percent) and nonfat fluid milk that meets the State and local standards for pasteurized fluid milk Any serving size.	
	<b><i>Flavored or plain, reduced fat (2 percent), low fat (1 percent) and nonfat fluid milk that meets the State and local standards for pasteurized fluid milk including lactose free or lactose-reduced milk.</i></b>	
	<b><i>Not to exceed 8 oz. per unit.</i></b>	<b><i>Not to exceed 16 oz. per unit.</i></b>
Dairy Alternative	Reduced fat, and enriched alternative dairy beverages (i.e. rice, soy or other alternative beverages approved by USDA). Any serving size.	
	<b><i>Lactose free or lactose-reduced milk. Rice, soy, or other alternative beverages approved by the USDA.</i></b>	
	<b><i>Not to exceed 8 oz. per unit.</i></b>	<b><i>Not to exceed 16 oz. per unit</i></b>

<b>Smoothie</b>	Yogurt or ice-based, no added sugars, and is made from fresh or frozen fruit drinks that contain at least 50 percent fruit juice	
	Not to exceed 400 calories	
	<b>Not allowed</b>	<b>Made with low fat yogurt or other low fat dairy alternatives.</b> <b>Not to exceed 200 calories per unit</b>
<b>Fruit and Vegetable drinks</b>  <b>Juice</b>	50 percent or more fruit and vegetable juice	
	Any serving size <b>100 percent fruit and vegetable juice</b>	
	<b>Not to exceed 4 oz. per unit</b>	<b>Not to exceed 12 oz. per unit</b>
<b>All other beverages</b>	Any beverage exempted from the USDA's list of FMNV	
	<b>Not Allowed</b>	<b>Noncarbonated beverages and any beverage exempted from the USDA's list of FMNV</b>
	<b>Not to exceed 200 calories and 12 oz.</b>	
<b>A la carte entrees menued on the current school day.</b>	Not Applicable	
	<b>Same item not to exceed serving size in the school meals programs</b>	
<b>A la carte entrees not menued on the current school day.</b>	Not Applicable	
	<b>Not to exceed 400 calories per serving</b>	<b>Not to exceed 450 calories per serving</b>
<b>Nutrient-dense foods</b>	All nuts, seeds, nut butters, eggs, fresh fruits and vegetables, 100 percent dried fruits and vegetables, yogurt and cheese Any serving size.	
	<b>All nuts, seeds, nut butters, eggs, fresh fruits and vegetables, 100 percent dried fruits and vegetables, yogurt and cheese and whole grain products</b>	
	<b>Any serving size</b>	
<b>Any food item that meets the following criteria</b>  <b>Any other individual food sales <u>except those listed separately in this table</u></b>	Total calories from fat do not exceed 35 percent	
	Total calories from saturated fat do not exceed 10 percent	
	Total amount of sugar by weight does not exceed 35 percent; and Calories do not exceed 200	
	<b>Not allowed</b>	<b>35 percent or less fat calories per serving <u>OR</u> 8 grams or less fat per serving</b>  <b>10 percent or less saturated fat calories per serving</b>  <b>Not to exceed 200 calories per unit</b>

Other areas to consider in revision:

- Requirement that all public schools issue a public announcement annually for the Illinois Free Breakfast and Lunch Program to announce program requirements to low income families. This is currently required for participation in any Federally-funded Child Nutrition Program.
- Update the revenue requirements found in 305.15 (e)
- Deletion of 305.15 (f) as no longer applicable
- Deletion of 305.15 (g) as these requirements would be covered under revisions to the food requirements
- Provision to allow one grade over or under the requirements

### Nutrition Standards for Proposed Rules

The following table is the proposed revisions to the School Food Service Rules 305.15:

<b>Beverages sold in participating schools to students in grades 8 and below anywhere on the school campus, excluding the USDA reimbursable meals, 30 minutes before and after the official school day</b>		
	<b>Pre-K – Grade 5</b>	<b>Grade 6-8</b>
<b>Water, unflavored</b>	Unsweetened, non-carbonated – any serving size	
<b>Water, flavored</b>	Not allowed	Not to exceed 25 calories per unit
<b>Milk</b>	Flavored or plain, reduced fat (2 percent), low fat (1 percent) and nonfat fluid milk that meets the State and local standards for pasteurized fluid milk including lactose free or lactose-reduced milk.	
	Not to exceed 8 oz. per unit.	Not to exceed 16 oz. per unit.
<b>Dairy Alternative</b>	Lactose free or lactose-reduced milk. Rice, soy, or other alternative beverages approved by the USDA.	
	Not to exceed 8 oz. per unit.	Not to exceed 16 oz. per unit.
<b>Smoothie</b>	Not allowed	Made with low fat yogurt or other low fat dairy alternatives.  Not to exceed 200 calories per unit
<b>Juice</b>	100 percent fruit and vegetable juice	
	Not to exceed 4 oz. per unit	Not to exceed 12 oz. per unit
<b>All other beverages</b>	Not Allowed	Noncarbonated beverages and any beverage exempted from the USDA's list of FMNV  Not to exceed 200 calories and 12 oz.
<b>Foods sold in participating schools to students in grades 8 and below anywhere on the school campus, excluding the USDA reimbursable meals, 30 minutes before and after the official school day</b>		
<b>A la carte entrees <i>menued on the current school day.</i></b>	Same item not to exceed serving size in the school meals programs	
<b>A la carte entrees <i>not menued on the current school day.</i></b>	Not to exceed 400 calories per serving	Not to exceed 450 calories per serving
<b>Nutrient-dense foods</b>	All nuts, seeds, nut butters, eggs, fresh fruits and vegetables, 100 percent dried fruits and vegetables, yogurt and cheese and whole grain products (Definition of whole grains to be included in 305.5.)  Any serving size	
<b><u>Any other individual food sales other than a la carte entrees and nutrient-dense foods</u></b>	Not Allowed	<ul style="list-style-type: none"> <li>• 35 percent or less fat calories per serving <u>OR</u> 8 grams or less fat per serving</li> <li>• 10 percent or less saturated fat calories per serving</li> <li>• Not to exceed 200 calories per unit</li> </ul>

## TITLE 23: EDUCATION AND CULTURAL RESOURCES

## SUBTITLE A: EDUCATION

## CHAPTER I: STATE BOARD OF EDUCATION

## SUBCHAPTER i: FOOD PROGRAMS

## PART 305

## SCHOOL FOOD SERVICE

## Section

305.5	Definitions
305.10	Illinois Free Lunch and Breakfast Programs
305.15	Sale of Foods and Beverages in Participating Schools
305.20	Student Workers
305.30	Government-Donated Commodities

AUTHORITY: Implementing and authorized by the Richard B. Russell National School Lunch Act (42 USC 1751 et seq.), Child Nutrition Act of 1966 (42 USC 1771 et seq.), and the School Breakfast and Lunch Program Act [105 ILCS 125].

SOURCE: Peremptory rule adopted at 2 Ill. Reg. 45, p. 83, effective October 25, 1978; codified at 7 Ill. Reg. 14743; amended at 30 Ill. Reg. 17475, effective October 17, 2006.

**Section 305.5 Definitions**

“Eligible student” means a student eligible for free or reduced price meals under the School Breakfast Program (42 USC 1771 et seq.) and/or the National School Lunch Program (42 USC 1751 et seq.) in accordance with federal regulations found at 7 CFR 245.3 (2006).

“Food service area” means any area on school premises where reimbursable meals are served and/or eaten.

“Meal period” means the period of time during which breakfast or lunch is regularly served and the time scheduled for the students to eat the meal.

“Participating school” means any public or nonpublic school that participates in the School Breakfast Program or the National School Lunch Program.

“Reimbursable meal” means a meal meeting the definition of a “federal reimbursable meal”, as set forth in regulations governing the School Breakfast Program (7 CFR 220.8 (2006)) or the National School Lunch Program (7 CFR 210.10 (2006)).

(Source: Added at 30 Ill. Reg. 17475, effective October 17, 2006)

**Section 305.10 Illinois Free Lunch and Breakfast Programs**

- a) In accordance with Section 4 of the School Breakfast and Lunch Program Act [105 ILCS 125/4], every public school shall provide free lunches to students eligible to receive free meals in accordance with 7 CFR 245.3 (2006).
- b) Every public school that offers a free breakfast program as defined in 105 ILCS 125/1 shall provide free breakfasts to students eligible to receive free meals in accordance with 7 CFR 245.3 (2006).
- c) Public and nonpublic schools may claim State reimbursement for each reimbursable meal provided to students eligible to receive free meals in accordance with 7 CFR 245.3 (2006).
- d) An accurate record of the actual number of free breakfasts and lunches served to children each day must be maintained.

(Source: Amended at 30 Ill. Reg. 17475, effective October 17, 2006)

**Section 305.15 Sale of Foods and Beverages in Participating Schools**

- a) Commencing on the first day of the 2006-07 school year, all participating schools shall adhere to the following requirements for the sale of foods and beverages to students in grade 8 or below before school and during the regular school day.
  - 1) Beverages sold to students shall include only:
    - A) flavored or plain whole, reduced fat (2 percent), low-fat (1 percent), or nonfat fluid milk that meets State and local standards for pasteurized fluid milk;
    - B) reduced fat and enriched alternative dairy beverages (i.e., rice, nut, or soy milk, or any other alternative dairy beverage approved by the U.S. Department of Agriculture (USDA));
    - C) fruit and vegetable drinks containing 50 percent or more fruit or vegetable juice;
    - D) water (non-flavored, non-sweetened, and non-carbonated);
    - E) fruit smoothie (yogurt or ice based) that contains less than 400 calories and no added sugars, and is made from fresh or frozen fruit or fruit drinks that contain at least 50 percent fruit juice; and
    - F) any beverage exempted from the USDA's list of Foods of Minimal Nutritional Value (see 7 CFR 210.11(a)(2) and 220.2(i-1) (2006)). The State Board of Education shall notify participating schools of these exemptions in January of each year; updates to the exemption list shall be provided within 10 calendar days after the State Board receives notification of any updates from USDA.
  - 2) Food sold to students outside of food service areas or within food service areas other than during meal periods shall include only:
    - A) nuts, seeds, nut butters, eggs, cheese packaged for individual sale, fruits or non-fried vegetables, or low-fat yogurt products; or
    - B) any food item whose:



## SUBTITLE A

## SUBCHAPTER i

- i) total calories from fat do not exceed 35 percent;
  - ii) total calories from saturated fat do not exceed 10 percent;
  - iii) total amount of sugar by weight does not exceed 35 percent; and
  - iv) calories do not exceed 200.
- 3) During the 2006-07 school year only, a participating school may apply for an exemption from the requirements of this subsection (a) by submitting its request on a form prescribed by the State Board of Education. If the participating school is part of a public school district, then the school district shall submit the request.
  - A) A request for an exemption may be submitted for a participating school's vending machines or school stores in cases in which the participating school can demonstrate that its existing food or beverage contract does not allow the participating school to offer only foods or beverages meeting the requirements.
    - i) The request shall include a copy of the existing contract with the food service vendor.
    - ii) The State Superintendent of Education shall approve a request provided that the application and existing contract demonstrate that, under the terms of the contract, the participating school would be unable to offer only foods and beverages meeting the requirements of this subsection (a).
  - B) A request for an exemption may be submitted for a participating school that includes both grades 8 and below and grades 9 and above in cases in which the participating school's food service facilities do not allow the participating school to distinguish between food and beverage sales to students in grades 8 and below and to students in grades 9 and above. The State Superintendent of Education shall approve a request provided that the participating school has demonstrated that accommodations (e.g., different schedules, separate food service lines, restricted access to vending machines) cannot be implemented to distinguish between the food

and beverage sales to students in grades 8 and below and to students in grades 9 and above.

- b) None of the requirements of subsection (a) of this Section shall apply to any food or beverage item sold to students as part of a reimbursable meal or to foods sold within food service areas during meal periods.
- c) None of the requirements of subsection (a) of this Section shall apply to any food or beverage item sold to a student who presents a written recommendation for that food or beverage item signed by a physician licensed under the Medical Practice Act of 1987 [225 ILCS 60] to practice medicine in all of its branches.
- d) If a participating school serves students in both grades 8 and below and students in grades 9 and above, then the participating school shall ensure that food and beverage sales to students in grades 8 and below meet the requirements of this Section, except as otherwise provided in subsection (a)(3) of this Section.
- e) All revenue from the sale of any food or beverage sold in competition with the School Breakfast Program or National School Lunch Program to students in the food service areas during the meal period shall accrue to the nonprofit school lunch program account.
- f) During the month of January 2007, or immediately following the release of the report of the School Wellness Policy Task Force (should it be after January 2007), the State Board of Education shall initiate a revision to the food and beverage standards set forth in this Part that responds to the statewide nutrition standards recommended by the Task Force in accordance with Section 2-3.137 of the School Code [105 ILCS 5/2-3.137] (see P.A. 94-199).
- g) Any participating schools in which classes of grades 5 and below are operating shall prohibit the sale to students of all confections, candy and potato chips during meal periods.

(Source: Amended at 30 Ill. Reg. 17475, effective October 17, 2006)

**Section 305.20 Student Workers**

- a) In order for a student to work in the food service area, any public school or any nonpublic school participating in the National School Lunch Program shall obtain written consent from the individual who legally enrolled the student, whether it be the parent, guardian or other individual.
- b) An eligible student shall not be required to work for his or her meals.
- c) A lunch or breakfast served to a student worker cannot be claimed for reimbursement as a free or reduced-price meal unless the student is an eligible student.
- d) A meal served to a student worker is to be recorded in the eligibility category for which the student would qualify if not working.

(Source: Added at 30 Ill. Reg. 17475, effective October 17, 2006)

**Section 305.30 Government-Donated Commodities**

- a) Any agreement or contract to process government-donated commodities between an eligible receiving agency (school district or institution) and a food supplier or management firm not listed on the electronic Illinois Commodity System must be submitted for approval to the Illinois State Board of Education.
- b) Proper storage facilities must be provided for government-donated food commodities. Such storage facilities shall meet the requirements set forth in federal regulations governing the storage and use of commodities in child nutrition programs (7 CFR 250 (2006)).
- c) Government-donated commodities shall not be stored at private residences or facilities, unless the facility is operated and designed for the storage or refrigeration of food, and the facility meets the requirements of subsection (b) of this Section.
- d) Government-donated commodities shall be ordered in amounts that can be adequately stored without loss or spoilage.
- e) Complaints from participating schools or agencies authorized to receive government-donated commodities about food safety and other food-quality issues concerning those commodities shall be reported to the State Board of Education on the form provided for that purpose.

(Source: Amended at 30 Ill. Reg. 17475, effective October 17, 2006)