

Illinois Regulation is a summary of the weekly regulatory decisions of State agencies published in the Illinois Register and action taken by the Illinois General Assembly's Joint Committee on Administrative Rules. Illinois Regulation is designed to inform and involve the public in changes taking place in agency administration.

New Regulations

STATE EMPLOYEES

The DEPARTMENT OF CENTRAL MANAGEMENT SERVICES adopted amendments to "Extensions of Jurisdiction" (36 Ill Reg 5652), effective 7/25/12, to bring six formerly excluded job titles under coverage of the Personnel Code, pursuant to six Memorandums of Understanding signed between the American Federation of State, County, and Municipal Employees and the State of Illinois. The titles include a nuclear safety information specialist II title at the Department of Central Management Services and the following 5 titles at the Illinois Commerce Commission: management secretary I, human resource analyst, senior financial and budget assistant, human resource clerk, and transportation industry customer service representative I. Effective 7/25/12, the persons in these titles either must already have been determined qualified or must test in examinations for comparable position titles within 6 months. All other regular personnel rules will be applicable to these titles effective 7/25/12. Since 1st Notice, the effective date of this rulemaking was changed from 7/1/12.

Questions/requests for copies: Mary Matheny, 720 Stratton Bldg., Springfield IL 62706, 217/557-5404.

HORSE RACING

The ILLINOIS RACING BOARD adopted amendments to "Regulations for Meetings (Thoroughbred)" (11 Ill Adm Code 1424; 36 Ill Reg 5961), effective 8/1/12. The amendment requires thoroughbred racetracks to post a summary of their on-track accident insurance coverage for jockeys and make copies of the policy available upon request. IRB also adopted amendments to "Medication" (11 Ill Adm Code 603; 36 Ill Reg 5954), effective 8/1/12, that reduce the threshold level for phenylbutazone from 5 to 2 micrograms/milliliter of serum or plasma for horses entered in graded stakes races pursuant to a revised Thoroughbred Owners and Breeders Association drug testing protocol. An identical emergency rulemaking appeared in the *Illinois Register* at 36 Ill Reg 5954.

Questions/requests for copies of the 2 IRB rulemakings above: Mickey Ezzo, IRB, 100 W. Randolph, Ste. 7-701, Chicago IL 60601, 312/814-5017.

(cont'd next page)

Proposed Regulations

TEACHER EDUCATION GRANTS

The BOARD OF HIGHER EDUCATION proposed a new Part titled "Grow Your Own Teacher Grants" (23 Ill Adm Code 1085 36 Ill Reg 12666), establishing procedures for BHE to make grants to potential teachers under a program transferred from State Board of Education control. The rulemaking establishes definitions, roles and responsibilities of those in the program and typical grant applications. Candidates must be eligible for student financial aid and must take advantage of existing financial aid resources before using funds from this program. The Board will set a performance level, including numerous outlined requirements, which the candidate must meet or maintain as a condition of continuing in the program. Candidates may have their loans forgiven if they complete 5 years in a hard-to-staff school. Candidates who do not teach within 2 years after receiving their teaching certificate, drop out of the program or have not completed 5 years of service within 10 years of receiving a teaching certificate must begin repayment of the loans. The rulemaking lists extenuating circumstances under which the Board may grant a deferment or waiver

(cont'd page 3)

NEW REGULATIONS: Rules adopted by agencies this week.

PROPOSED REGULATIONS: Rules proposed by agencies this week, commencing a 45-day First Notice period. Public comments must be accepted by the agency for the period of time indicated.

☞: Symbol designating rules of special interest to small businesses, small municipalities, and not-for-profit corporations. Agencies are required to consider comments from these groups and minimize the regulatory burden on them.

QUESTIONS/COMMENTS/RULE TEXT: Direct mail or phone calls to the agency personnel listed below each summary. Providing volume and issue number of The Flinn Report or the Illinois Register will expedite the process. Some agencies charge copying fees. However, copy requests do not have to be made under the Freedom of Information Act.

New Regulations

TENURED TEACHER DISMISSALS

The STATE BOARD OF EDUCATION adopted amendments to its rules titled "Dismissal of Tenured Teachers under Article 24 and Dismissal of Tenured Teachers and Principals under Article 34 of the School Code" (23 Ill Adm Code 226; 36 Ill Reg 2042), effective 7/25/12, to implement Public Act 97-8. The PA establishes new dismissal procedures for downstate tenured teachers (Article 24) and for tenured teachers and principals in Chicago Public Schools (Article 34) for "other than honorable" causes or reasons (e.g., misconduct or unsatisfactory performance evaluation ratings). The act and this rulemaking create a streamlined optional dismissal process for personnel with poor performance ratings and also shortens timelines for dismissal procedures related to misconduct or repeated poor performance. The rulemaking divides the Part into standard dismissal procedures and optional dismissal procedures, each with separate rules applicable to downstate districts or to Chicago. Standard dismissal procedures apply to tenured teachers who are charged with misconduct or receive a rating of "unsatisfactory" or "needs improvement" within 36 months after completing a remediation plan for earlier poor performance. Optional dismissal procedures apply to tenured teachers being dismissed after an initial poor performance rating and include a second evaluation conducted by a qualified evaluator. Since 1st Notice, the following changes have been made: Provisions for serving notice of dismissal proceedings to the teacher's last known address when a teacher cannot be contacted have been added to both the Article 24 and Article 34 rules. If a tenured teacher under Article 34 elects not to participate in the hearing officer selection process, he or she must send SBE's General Counsel a copy of the hearing request. Provisions for "set offs for mitigation" when a teacher's pay is restored after a suspension have been added to the downstate rules (this provision was already in the Chicago

rules by statute). (A setoff for mitigation is a reduction in the amount of restored back pay that takes into account replacement income the teacher earned while suspended.) Additions to the Chicago (Article 34) rules also include provisions for hearing officer vacancies occurring before and after a hearing opens. Finally a parent or representative of a minor who is a witness at either type or hearing (Article 24 or 34) or is allowed to be present when the minor is testifying. School districts that choose to use the optional dismissal procedures will be affected by this rulemaking.

Questions/requests for copies: Jessica Riddick, SBE, 100 W. Randolph St., CH 14-300, Chicago IL 60601, 312/814-2223.

SPECIAL EDUCATION

SBE also adopted amendments to "Special Education" (23 Ill Adm Code 226; 36 Ill Reg 4363), effective 7/24/12, to implement several Public Act provisions. SBE is cross referencing the PA 97-123 definition of a medical condition that will cause a child with an Individualized Education Plan (IEP) to qualify for home or hospital instruction (medical condition causing the child to be absent from school at least 2 days at a time multiple times during the school year, totaling at least 10 days or more of absences). Home or hospital instruction must commence not later than 5 days after the school receives a physician's written statement affirming the student's condition, ability to participate in instruction and projected duration of the absence. SBE is also including the PA 97-284 definition of general education classroom (at least 70% of students without IEPs) in its class size requirements for students with IEPs. These requirements do not apply to students with IEPs who are receiving only speech services outside the general classroom. SBE is updating its references in this Part from "mental retardation" to "intellectual disability" in compliance with PA 97-227. Finally, SBE is removing obsolete qualifica-

tions for school district directors and assistant directors of special education, as they must now meet the requirements set out in another Part (23 Ill Adm Code 29.140). Since 1st Notice, SBE has added provisions for instruction missed due to absences.

Questions/requests for copies: David Andel, SBE, 100 N. First St., W-253, Springfield IL 62777, 217/782-5589.

TEACHER CERTIFICATION

SBE adopted emergency amendments to "Certification" (23 Ill Adm Code 25; 36 Ill Reg 12903), effective 7/24/12 for a maximum of 150 days, to permit applicants for Illinois teacher licenses to substitute satisfactory scores on the SAT or ACT for passage of the Test of Academic Proficiency (TAP, formerly Basic Skills Test), provided that (a) the test scores are less than five years old and (b) applicants have not failed the Illinois TAP five or more times. ISBE will post threshold scores for each exam on its website (current thresholds are 1030 for the SAT and 22 for the ACT).

Questions/requests for copies: Linda Tomlinson, SBE, 100 North First Street, E-315, Spfld, IL 62777, 217/782-4123.

VIDEO GAMING

The ILLINOIS GAMING BOARD adopted an emergency amendment to "Video Gaming (General)" (11 Ill Adm Code 1800; 36 Ill Reg 12895) requiring licensed operators to keep one bank account for each video gaming location he or she operates. An identical proposed rulemaking appears in this week's *Illinois Register* at 36 Ill Reg 12699. These rulemakings implement Section 15(15) of the Illinois Video Gaming Act [23 ILCS 40]. Video gaming operators are affected by these rulemakings.

Questions/requests for copies/comments on the proposed rulemaking through 9/24/12: Lynn Carter, IGB, 160 N. LaSalle St., Chicago, IL 60601, 312/814-7253.

Proposed Regulations

for the repayment of loans. The program also offers planning grants or implantation grants to potential consortia composed of interested educational entities (i.e. school districts, school employee union, regional office of education) and an institution of higher education. A consortium that has received an implementation grant is eligible for a continuation grant to fund ongoing programs. Continuation grants may be received for succeeding years. The rulemaking also addresses the topics of grant agreements, audit guidelines and grant fund recovery.

Questions/requests for copies/comments through 9/24/12: Karen Helland, BHE, 431 E. Adams Street, 2nd Floor, Springfield IL 62701-1404. 217/557-7358. Fax: 217/782-8548. Email: helland@ibhe.org.

PROCUREMENT

The OFFICE OF THE COMPTROLLER proposed amendments to "Standard Procurement" (44 Ill Adm Code 1120; 36 Ill Reg 12702) to conform to statutory amendments to the Illinois Procurement Code. The Office announces it will promulgate rules for capital construction, but until that is done the Office shall follow the rules of the Chief Procurement Officer (CPO) for General Services. The Comptroller shall designate a CPO with at least 5 or more years in state or corporate budgeting activities and who is a certified professional public buyer or certified public purchasing officer. The Comptroller may appoint Purchasing Offic-

ers (POs), with the Comptroller's Ethics Officer serving as the Office's Procurement Compliance Monitor. The Comptroller shall appoint his own Procurement Policy Board (IOC PPB), consisting of 3 members. The Board shall meet at least 3 times annually and be contacted in writing prior to the publication of any Request for Information exceeding \$10,000. Other duties of the IOC PPB include: reviewing and commenting on rules and practices governing the procurement of supplies, services, construction and capital improvements of the Office; reviewing any proposal, bid or contract; issuing recommendations regarding procurement matters; recommending action to the CPO and Comptroller in cases of conflict of interest, and reporting to the Inspector General whenever the IOC PPB has cause to believe there has been a violation of the Procurement Code. The Comptroller shall appoint a chief internal auditor that must be either a certified internal auditor or a CPA or an auditor with 5 years' experience. Within 30 days after making an award, if the SPO receives a purchase request for the same item for the same or lesser quantity, the SPO may contract with the same vendor on the same terms. Where a particular source selection method is not required by law, such as use of competitive sealed bidding for a small purchase otherwise exempt from the bidding requirement, the Office is not bound to strict compliance with the Code and rules governing the method of source selection used. "Stringing", the splitting of procurements to avoid use of competi-

tive bidding, is prohibited. Vendors must identify any information that is exempt from disclosure under the Freedom of Information Act. Required records that must be maintained by an SPO in the procurement file include Procurement Bulletin postings; solicitation documents; vendor responses; evaluation material; protest and resolution documents; and the contract and any change order, amendments, renewal or extension. Policies regarding ex parte procurement communications and reporting to the Procurement Policy Board involving procurement mirror those established already by the Executive Ethics Commission. Provisions for soliciting, receipt and evaluation of competitive sealed proposals are prescribed. New allowances for sole source procurements include advertising media, procurement of art or entertainment services, and changes to existing contracts. Emergency contracts shall not normally exceed 90 days unless a CPO determination is made otherwise, a public hearing is held and there is written justification. All competitive sealed proposals shall identify subcontractors that will be employed, and amounts expected to be paid to each. The rulemaking will affect small businesses wishing to obtain contracts with the Comptroller's Office.

Questions/requests for copies/comments for the above rulemaking through 9/24/12: Alissa Camp, Office of the Comptroller, Room 201 Statehouse, Springfield IL 62706, 217/782-0905. CampAJ@mail.ioc.state.il.us.

Second Notices

The following rulemakings were moved to Second Notice this week by the agencies listed below, commencing the JCAR review period. These rulemakings will be considered at JCAR's September 11, 2012 meeting.

DEPARTMENT OF NATURAL RESOURCES

"Cock Pheasant, Hungarian Partridge, Bobwhite Quail, and Rabbit Hunting" (17 Ill Adm Code 530) proposed 6/1/12 (36 Ill Reg 8187)

SECRETARY OF STATE

"Issuance of Licenses" (92 Ill Adm Code 1030) proposed 6/1/12 (36 Ill Reg 8227)