

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, also titled The Flinn Report in memory of founding JCAR member Rep. Monroe Flinn, is designed to inform and involve the public in changes taking place in agency administration.

Proposed Rulemakings

■ DAY CARE

The DEPARTMENT OF CHILDREN AND FAMILY SERVICES proposed amendments to Licensing Standards for Day Care Homes (89 IAC 406; 43 Ill Reg 10613), Licensing Standards for Day Care Centers (89 IAC 407; 43 Ill Reg 10634) and Licensing Standards for Group Day Care Homes (89 IAC 408; 43 Ill Reg 10661) all implementing Public Act 100-105. The PA and these rulemakings prohibit day care homes and centers from expelling children for behavioral reasons without creating an intervention plan to transition the child to a more appropriate setting. The rulemakings define "challenging behavior" as any actual or perceived behavior that interferes with optimal learning or engagement with peers or adults. When a repeated pattern of challenging behavior by a child (extreme tantrums, physical/verbal

aggression, property destruction, self-injury) disrupts the learning environment, an intervention plan must be created and agreed upon by day care program staff, the child's parents/primary caregivers, and one or more qualified professionals (e.g., health care provider, licensed clinical social worker, behavioral therapist, early childhood mental health

Emergency Rule, Page 2

consultant). A child cannot be expelled from a day care home or center due to a repeated pattern of challenging behavior; however, a planned transition to another setting will not be considered expulsion. All day care homes and centers must maintain, and notify parents of, their written intervention and transition policies. These policies must address initial and ongoing observation of

(cont. page 3)

New Rules

■ SCHOOLS

The STATE BOARD OF EDUCATION adopted amendments to Public Schools Evaluation, Recognition and Supervision (23 IAC 1; 42 Ill Reg 18831), effective 9/11/19, concerning State assessment tests, now known as State accountability assessments. High school students must now complete the final State accountability assessment administered in grade 11 before they can be granted a regular diploma (formerly, before promotion to grade 12), unless their school district applies to SBE for a waiver of this requirement. When applying for the waiver, schools must explain why the affected students were unable to take the assessment, provide justification for granting the waiver, and demonstrate that the waiver

(cont. page 2)

NEW RULES: Rules adopted by agencies this week. **EMERGENCY RULES:** Adopted for a temporary period not to exceed 150 days.

PROPOSED RULES: Rules proposed by agencies this week, commencing a 45-day First Notice period during which public comments must be accepted.

PEREMPTORY RULES: Rules adopted without prior public notice or JCAR review as authorized by 5 ILCS 100/5-50.

■ Designates 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: Submit mail, email or phone calls to the agency personnel listed below each summary.

RULE TEXT: Available on the Secretary of State (www.cyberdriveillinois.com) and General Assembly (www.ilga.gov) websites under Illinois Register. Second Notice text (original version with changes made by the agency during First Notice included) is available on the JCAR website.

Emergency Rule

CASINO GAMBLING

The ILLINOIS GAMING BOARD adopted emergency amendments to the Part titled Riverboat Gambling (86 IAC 3000; 43 Ill Reg 10733) effective 9/13/19 for a maximum of 150 days. The emergency rule implements a new Section of the Illinois Gambling Act that was created by Public Act 101-31. It adds a broader definition of gaming operation that includes land-based casinos and organization gaming facilities as well as riverboat casinos. An “organization gaming facility” is defined as the portion of an organization licensee’s racetrack facilities where gaming takes place, including both publically

accessible areas and restricted areas. The licensing requirements for owners, suppliers, and occupational licensees that applied to riverboat casinos are extended to include all casinos and organization gaming licensees. Limitations on the number of gaming positions allowed per owners license or organization gaming license are amended to remove the cap of 1,200 gaming participants per owner’s license. The number of gaming positions allowed to a licensee shall not include devices that are not currently operational; promotional give-aways that require no entry fee; sports wagering; or pari-mutuel wagering under the Horse Racing Act. Prior written notice

must be given to IGB of any reallocation of gaming positions. The current formula for determining gaming positions remains in effect for positions established before 9/1/19. Finally, restrictions on the hours when alcoholic beverages may be sold or consumed at riverboat casinos (generally, from 9:30 a.m. to the earlier of 4 a.m. or one hour before the close of gaming) are extended to other gaming operations that do not operate 24 hours a day.

Questions/requests for copies: Agostino Lorenzini, IGB, 160 N. LaSalle St., Chicago IL 60601, fax 3 1 2 / 8 1 4 - 7 2 5 3 , Agostino.lorenzini@igb.illinois.gov

New Rules

(cont. from page 1)

will not result in systemic exclusion of students from accountability based on race, gender, disability, English learner status, income, or other demographic factors. This exemption will normally be limited to no more than 1 percent of the school’s graduating class. A school that seeks this exemption for a larger percentage of its graduating class must provide additional evidence that it is not practicing systemic exclusion of a particular demographic or ability group. Students with Individualized Education Plans (IEPs) who receive alternative diplomas must

take State accountability assessments during their years of compulsory attendance, but can be exempted after taking the final accountability assessment. The rulemaking also implements a provision of Public Act 100-465 requiring nonpublic school students who receive scholarships from the Invest in Kids Program to take the State’s accountability assessment tests. Other provisions remove references to specific versions of the State assessment (Prairie State Achievement Examination and Illinois Alternate Assessment), update the scoring categories, and clarify which scores are

considered relevant to a school’s accountability rating (formerly known as adequate yearly progress). Finally, the rulemaking replaces obsolete references to the federal No Child Left Behind Act with the Every Student Succeeds Act (ESSA). Those affected by this rulemaking include recipients of nonpublic school scholarships under the Invest in Kids Program.

Questions/requests for copies: Azita Kakvand, SBE, 100 N. First St., Springfield IL 62777-0001, 217/782-6510, rules@isbe.net

Proposed Rulemakings

(cont. from page 1)

challenging behaviors; communication with parents; and utilization of community resources (e.g., developmental screenings, referrals to other early childhood education or early intervention programs, consultation with the child's health care provider or mental health consultants). Providers must document, on Department-provided forms, all steps taken in accordance with their policies to ensure that the child can participate safely in the day care program. Children who do not respond to interventions or whose presence is detrimental to the group shall be transitioned to another program; the day care provider must work with the child's parents to identify a suitable new program and prevent interruption of child care services. Providers shall also submit an annual report to the State Board of Education listing how many children ages birth to 5 were served, and how many left the program, during the program year. This report must include the number of planned transitions due to behavior and the number of temporary removals of children due to a serious safety threat, with each instance classified by the race, gender, disability and language of the child; the program's class/group size and teacher-child ratio; the length of the program day; and the number of hours of infant or early childhood mental health consultation provided during the program year. Day care homes and centers will be affected by these rulemakings.

Questions/requests for copies/ comments on the 3 DCFS rulemakings through 11/12/19: Jeff Osowski, DCFS, 406 E. Monroe St., Station #65, Springfield IL 62701-1498, 217/524-1983, fax 217/557-0692, CFPolicy@idcfs.state.il.us

■ INCOME TAX

The DEPARTMENT OF REVENUE proposed amendments to Income Tax (86 IAC 100; 43 Ill Reg 10682) updating various exemptions and credits to reflect recent Public Acts. The standard exemption is abolished after 12/31/23. For tax years 2017 and later, if a taxpayer's gross income exceeds \$250,000 (individual) or \$500,000 (spouses filing a joint return), the taxpayer cannot claim the standard exemption, the educational expense credit, or the residential property tax credit. The maximum educational expense credit is raised from \$500 to \$750 for tax years 2017 and beyond, and a tax credit of up to \$250 for instructional materials and supplies purchased by teachers for classroom use is established effective 1/1/17. The definition of a "school" for purposes of claiming the educational expense credit is also clarified to reflect recent changes to the School Code. The rulemaking establishes a new sunset date of 1/1/27 for the research and development credit and extends the credit to the period 1/1/16 (when a previous version of the credit expired) through 7/6/17 (when the credit was reinstated). The sunset date of the angel investment credit is extended to

12/31/21 and the sunset date of the film production services credit is extended to 1/1/27. Finally, the rulemaking lists the maximum Illinois earned income tax credit (EITC) amounts for the tax years from 2000 through 2017 and sets the Illinois EITC at 18% of the federal EITC for 2018 and later tax years. Small businesses may be affected by this rulemaking.

Questions/requests for copies/ comments through 11/12/19: Brian Fliflet, DOR, 101 W. Jefferson St., MC 5-500, Springfield IL 62794, 217/782-2844.

STATE EMPLOYEES

The DEPARTMENT OF CENTRAL MANAGEMENT SERVICES proposed amendments to Pay Plan (80 IAC 310; 43 Ill Reg 10527). The rulemaking establishes new salary ranges for all Merit Compensation System (MS) positions effective 1/1/20, reflecting the increase in the State minimum wage. MS and bargaining unit pay grades are added, removed or updated for various positions. Pay rates for boiler safety specialists and boiler safety audit specialists in the Northern Region are also updated to reflect prevailing wages in accordance with an existing collective bargaining agreement.

Questions/requests for copies/ comments through 11/12/19: Lisa Fendrich, CMS, 504 Stratton Bldg., Springfield IL 62706, 217/782-7976, fax 217/524-4570, CMS.PayPlan@illinois.gov

Second Notices

The following rulemaking was moved to Second Notice this week by the agency listed below, commencing the JCAR review period. This rulemaking will be considered at the October 8, 2019 JCAR meeting. Other items not published in the *Illinois Register* or The Flinn Report may also be considered. Further comments concerning this rulemaking should be addressed to JCAR using the contact information on page 1.

DEPT OF REVENUE

Use Tax (86 IAC 150; 43 Ill. Reg. 1714) proposed 2/8/19

Joint Committee on Administrative Rules

Senator Don Harmon, *co-chair*

Representative Tom Demmer

Senator Kimberly Lightford

Representative Michael Halpin

Senator Tony Muñoz

Representative Frances Ann Hurley

Senator Sue Rezin

Representative Steven Reick

Senator Paul Schimpf

Representative André Thapedi

Senator Chuck Weaver

Representative Keith Wheeler, *co-chair*

**Vicki Thomas
Executive Director**