

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 Rulemaking

SCHOOL CONSTRUCTION

The STATE BOARD OF EDUCATION proposed amendments to the Part titled School Construction Program (23 IAC 151; 47 Ill Reg 2211) implementing Public Act 102-723. The rulemaking states that effective 7/1/22, SBE may open an application cycle for grant awards, subject to appropriation and release of funds to the Capital Development Board. Applications must be submitted electronically through SBE's website and received within 180 days after the grant application period opens. The rulemaking also replaces references to grant "entitlements" issued by SBE to grant "awards" reviewed by SBE, and clarifies that grant awards to districts lacking adequate facilities for students are issued on a conditional basis, based on funding and project priority criteria. Applicant districts

shall determine their enrollment as of October 1 (currently, the last school day in September) of the most recent school year. Other provisions update the required documents to be included in an application, and clarify that area vocational centers and special education cooperatives are eligible for school construction grants provided they have joint

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agreements specifying how the debt obligation will be paid in the event that the agreement is terminated or that a participating entity withdraws from the agreement.

Questions/requests for copies/ comments through 4/3/23: Azita Kakvand, SBE, 555 W. Monroe St., Suite 900, Chicago IL 60661, 312/783-2757, rules@isbe.net

Adopted Rules

FOID APPEALS

The ILLINOIS STATE POLICE adopted amendments to the Part titled Firearm Owner's Identification Card Act (20 IAC 1230; 46 Ill Reg 17910) effective 2/3/23 that clarify the processes involved when an applicant who is denied a Firearm Owner's Identification Card (FOID) appeals the denial. Denials based on a felony conviction, commitment to a mental health facility or a "clear and present danger" determination may now be appealed to the FOID Card Review Board (which has been established as a separate rulemaking agency and has recodified the Sections addressing these appeals to 20 IAC 3500). If the appeal is based on the alleged inaccuracy of records submitted to ISP, a records challenge must be

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ADOPTED 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.

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submitted to ISP. Forms for submitting either type of appeal are available on ISP's website.

Questions/requests for copies: Kelly M. Griffith, ISP, 801 S. Seventh St. Suite 1000-S, Springfield IL 62703, 217/782-7658.

SPECIAL EDUCATION

The STATE BOARD OF EDUCATION adopted amendments to Special Education (23 IAC 226; 46 Ill Reg 15376) effective 2/6/23 that reflect recent Public Acts; address translation and interpretation services for Individualized Education Program (IEP) students whose families are not English proficient; and address other issues. The rulemaking implements PA 101-654, which allows children who receive Early Intervention services, are eligible for IEP services, and reach their 3rd birthday between May 1 and August 31 to continue receiving Early Intervention services until the beginning of the school year (when they may enroll in preschool). The rulemaking also implements PA 102-254, which requires school districts, prior to placing a child in an out-of-state special education residential facility, to inform the child's parents/guardians if an in-State residential facility is available that provides comparable treatment and services. Districts must also review their out-of-state special education placements on an annual basis. With regard to

students with special needs whose parents/guardians are not English proficient, the rulemaking requires districts to make competent interpretation services for IEP conferences available in "common languages", which include the 5 most commonly spoken non-English languages in Illinois as determined by the IEP Home Language Survey and any other non-English language spoken by at least 20 families in that district. Non-English-speaking parents must also be provided translations of vital documents (e.g., IEP meeting notifications, consent forms, eligibility determinations, progress reports) into their preferred language in a timely manner. Translations must be performed by qualified individuals familiar with special education terminology and ethics, or if the district uses an automated translation service, reviewed and edited by an individual qualified to determine the accuracy of the translation. Proposals by a district to initiate, deny or change a child's educational placement must be provided in writing in the parent's preferred language or in another mode of communication (e.g., orally if the parent is illiterate). Qualified interpreters for common languages and American Sign Language must be made available for IEP meetings when needed, and districts must make reasonable efforts to find interpreters for less common languages. Qualified interpreters must demonstrate competency by certification from a recognized program or another program that meets or exceeds specified

criteria. If qualified individual interpreters are not available, commercially recognized interpretation services, including telephonic services, may be used. The district's annual notice to parents of children with disabilities, and every notice of an IEP conference, must include a notice of availability of interpretation and translation services in English, the common languages, and in the parents' preferred language if known and practicable. Parents who believe a request for an interpreter was unreasonably denied may file a complaint with SBE. Districts must report annually to SBE the number and percentage of IEP documents for which translation services were provided and conferences for which interpretation services were used. The rulemaking also removes or updates various obsolete provisions and references.

Questions/requests for copies: Azita Kakvand, SBE, 555 W. Monroe St., Suite 900, Chicago IL 60661, 312/783-2757, rules@isbe.net

■ STUDENT ASSISTANCE

The ILLINOIS STUDENT ASSISTANCE COMMISSION adopted an amendment to Illinois Veteran Grant (IVG) Program (23 IAC 2733; 46 Ill Reg 16370) effective 2/6/23, implementing PA 102-800, which requires IVG recipients to have been honorably discharged from their most recent

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(formerly, from each) period of active duty service.

ISAC also adopted new Parts titled School and Municipal Social Work Shortage Loan Repayment Program (23 IAC 2748; 46 Ill Reg 16378) and Human Services Professional Loan Repayment Program (23 IAC 2752; 46 Ill Reg 16384), both effective 2/6/23, implementing student loan repayment programs created by two Public Acts. Part 2748 allows Illinois residents who have been employed as social workers for at least 12 consecutive months in a public elementary or secondary school or by a municipality (outside of a police department) to apply for grants toward repaying eligible student loans obtained in relation to completing their degree in social work. Part 2752 institutes a similar grant program for human services professionals who have been employed for at least 24 consecutive months in a community-based human services agency that has a contract with the State, and who will remain with that agency for at least 12 months after receiving the grant. Recipients of the social work loan repayment grants may reapply on an annual basis but will receive only one grant of up to \$6,500. Recipients of the human services loan repayment grants may receive them for up to 4 years; maximum annual grant amounts are \$25,000 for loans obtained to finance a master's or doctoral degree, \$15,000 for bachelor's degrees, and \$3,000 for associate degrees.

DFPR Public Hearings

■ FINANCIAL INSTITUTIONS

The DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION will hold a series of 3 public hearings on the following proposed new Parts:

-- Bank Community Reinvestment (38 IAC 345; 46 Ill Reg 19794), **Thurs. March 2, 10 a.m.**

--Mortgage Community Reinvestment (38 IAC 1055; 46 Ill Reg 19862), **Thurs. March 2, 2 p.m.**

-- Credit Union Community Reinvestment (38 IAC 185; 46 Ill Reg 19726), **Wed. March 8, 1 p.m.**

These hearings will take place in the Illinois Room on the first floor of DFPR's office, **555 W. Monroe St., Chicago**. Interested persons who cannot attend in person may participate via Web Ex at: <https://illinois.webex.com/illinois/j.php?MTID=m9e810570dd61941c219627a4c64fe2e2>
Hearing Number: 2466 904 5782
Hearing Password: c3PeXeWhF42

An additional \$5,000 per year may be awarded to applicants who are independently licensed as clinical social workers, clinical professional counselors, marriage and family therapists, or in other medical or mental health fields. Recipients must not be in default on any student loan or owe money to ISAC from another grant or

To join by phone, call 1-312-535-8110 or 1-415-655-0002, access code 2466 904 5782. Comments will be limited to 5 minutes per commenter.

These rulemakings were published in the 12/16/22 *Illinois Register* and implement Public Act 101-657, the Illinois Community Reinvestment Act (ILCRA), as it relates to credit unions, banks and mortgage lenders that have originated 50 or more mortgage loans in the previous calendar year. They require DFPR to periodically evaluate and rate how these credit unions, banks and mortgage lenders are performing with regard to community development activities. Credit unions, banks, mortgage lenders, and small businesses or non-profits that use or seek their services are affected by these rules.

Questions regarding the public hearings or these rulemakings: Craig Cellini, DFPR, 320 W. Washington St., 2nd Floor, Springfield IL 62786, 217/785-0810, fax 217/557-4451.

scholarship program. The number of loan repayment grants awarded and the amount of assistance is contingent upon available funding. If available funds are not sufficient to assist all applicants, the social work grant program will prioritize

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new minority applicants, followed by other new applicants, while the human services grant program will prioritize renewal applicants. Those affected by this rulemaking include social workers and human services professionals employed by municipalities, human service agencies and public school districts.

Questions/requests for copies of the 3 ISAC rulemakings: Jackie Eckley, ISAC, 500 W. Monroe, 3rd Floor, Springfield IL 62704, 217/782-5161, jackie.eckley@illinois.gov

■ ANNUITIES

The DEPARTMENT OF INSURANCE adopted amendments to Suitability in Annuity Transactions (50 IAC 3120; 46 Ill Reg 15424) effective 2/3/23 that conform with recent changes to the National Association of Insurance Commissioners (NAIC) Suitability in Annuity Transactions Model Regulation. The amendments add definitions of cash and non-cash compensation, consumer profile information, material conflict of interest, and other terms, and provide criteria for determining when an insurance producer, in selling or recommending an annuity, has acted in the best interest of the consumer. These criteria include obtaining, or attempting to obtain, consumer profile information that includes the consumer's age, annual income, existing assets, debts/obligations

and other financial needs, financial objectives, tax status, risk tolerance and other factors. A consumer who refuses to provide some or all of this information must sign a statement acknowledging their refusal and advising them that the producer may, for that reason, not be able to recommend a product meeting their needs. Producers must disclose to all consumers the products they are licensed to sell, the insurers for whom they may sell products, and any cash or non-cash compensation they receive for product sales. If the consumer requests, producers must also disclose a reasonable estimate of the cash compensation they will receive and how it will be received (in a lump sum or over time). A consumer who purchases an annuity not recommended by the producer must sign an acknowledgment of that fact. Insurers are prohibited from sponsoring sales contests, quotas, bonuses or non-cash compensation that is contingent upon producers selling a specified number of annuities within a limited period. The rulemaking also adds new requirements for annuity provider training courses effective 2/1/24 (changed since 1st Notice from 1/1/23) and provides examples of disclosure and waiver forms. Since 1st Notice, DOI has clarified that these rules do not subject an insurance producer to civil liability under either the "best interest of the consumer" standard or the standards of a fiduciary relationship, nor do they hold the producer to any standards other than those of the professional

licenses the producer holds. Other changes clarify and add various definitions. Those affected by this rulemaking include insurance producers who sell annuities.

INSURANCE

DOI adopted amendments to Insurance Department Consumer Complaints (50 IAC 926; 46 Ill Reg 14838) effective 2/1/23 clarifying Section 926.20, which as formerly written could be interpreted to exclude certain individual licensees such as public adjusters, navigators, or pharmacy benefits managers from regulation under this Part. The rulemaking clarifies that the Part is intended to apply to all entities and individuals licensed or otherwise approved by DOI to do business in Illinois. DOI also repealed the Part titled Arson Fraud Detection Reporting System (50 IAC 2303; 46 Ill Reg 11673) effective 2/1/23 because it references outdated reporting requirements for the Property Insurance Loss Register, which no longer exists.

DOI also adopted amendments to Licensing of Public Adjusters (50 IAC 3118; 46 Ill Reg 9467) effective 2/1/23 that reflect changes to the Insurance Code concerning disclosures filed by public adjusters and contract forms for contracts between public adjusters and insured entities. The rulemaking also removes redundant statutory language and removes a requirement that continuing education for public

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adjusters include 3 hours of classroom ethics instruction; the effect is to permit ethics instruction to be completed via webinar.

Questions/requests for copies of the 4 DOI rulemakings: Part 3120, Jeff Varga (217/785-5987); Parts 926 and 2303, Julie Rachford (217/782-4572); DOI, 320 W. Washington St., 4th Fl., Springfield IL 62767-0001. Part 3118, Justin Hammersmith, DOI, 122 S. Michigan Ave., 19th Fl., Chicago IL 60603, 312/814-1767.

■ COAL MINING

THE DEPARTMENT OF NATURAL RESOURCES adopted amendments to the Parts titled Permanent Program Performance Standards - Surface Mining Activities (62 IAC 1816; 46 Ill Reg 3998) and Permanent Program Performance Standards - Underground Mining Operations (62 IAC 1817; 46 Ill Reg 4040), both effective 2/3/23, that clarify and update standards for soil replacement and revegetation at surface and underground mining sites, align each Part with federal laws, remove an outdated agricultural lands productivity formula, and remove sorghum as a crop for testing. Coal mining operations and land reclamation efforts are affected by these rulemakings.

Questions/requests for copies of the 2 DNR rulemakings: Amy Oakes, DNR, One Natural Resources Way, Springfield, IL 62702, 217/782-1809.

COMMUNITY COLLEGES

The ILLINOIS COMMUNITY COLLEGE BOARD adopted amendments to the Part titled Administration of the Illinois Public Community College Act (23 IAC 1501; 46 Ill Reg 11626) effective 2/1/23. The rulemaking adds a statutorily required annual Native American Employment Plan Survey, extends the deadline for community college capital project reporting from July 1 to August 1, and corrects Section references. Other provisions streamline the process for selecting community colleges to offer programming at military installations, correctional institutions, or other State or federal institutions when the local community college opts not to offer the instruction, and implement a PA that updates rules for awarding prior learning credit for the Child Development Associate certificate.

Questions/requests for copies: Matt Berry, ICCB, 401 E. Capitol Ave., Springfield IL 62701-1711, 217/785-7411, Matt.Berry@illinois.gov

DPH ORGANIZATION

The DEPARTMENT OF PUBLIC HEALTH adopted amendments to the Part titled Public Information, Rulemaking and Organization of the Department of Public Health (2 IAC 1125; 47 Ill Reg 2410) effective 2/6/23, clarifying and updating various aspects of DPH organization and rulemaking. The amendments state that the Division of Governmental Affairs

(formerly, the Division of Legal Services) is responsible for submitting proposed rulemakings to the Secretary of State and to the Joint Committee on Administrative Rules. Proposed rulemakings must be reviewed by the Division of Legal Services and the Division of Governmental Affairs prior to filing with SOS. The Division of Governmental Affairs may allow exceptions to the general (existing) rule that all proposed amendments to a particular Part be consolidated into one rulemaking per calendar quarter. The rulemaking also clarifies the role of DPH advisory boards and commissions regarding proposed rules; includes the website where these advisory boards are listed; and updates the list of DPH rules by Title and Part in the Illinois Administrative Code.

Questions/requests for copies: Tracey Trigillo, DPH, 524 S. Second St., 6th Floor, Springfield IL 62701, 217/782-1159, dph.rules@illinois.gov

JCAR Meeting Action

At its 2/14/23 meeting, the Joint Committee on Administrative Rules approved the following actions:

OBJECTIONS

JCAR objected to the State Police Merit Board rulemaking titled Procedures of the Department of State Police Merit Board (80 IAC 150; 46 III Reg 8066) so that the Board may withdraw the rulemaking and address public comments concerning the rulemaking.

JCAR objected to the Board of Examiners emergency rulemaking titled Certificate of Education and Examination Requirements (23 IAC 1400; 47 III Reg 1510) because the emergency rules incorporate a number of technical changes to update references and reflect current practices and circumstances. 1 Ill. Adm. Code 230.400(a)(1)(D) requires emergency rules to be limited to those matters that are required to meet the emergency situation. Additionally, the Board adopted this emergency rule January 10, 2023 with new standards that were effective January 1, 2023, thus retroactively implementing new standards by failing to timely file this emergency rule.

RECOMMENDATIONS

With respect to the Department of Central Management Services rulemaking titled State Employee Group Health Insurance Program (80 IAC 2210; 46 III Reg 17774), JCAR recommended that the Department be more timely in carrying out statutory mandates to adopt rules. Sections 15(a) through (d) of the State Employees Group Insurance Act of 1971 [5 ILCS 375], which were adopted prior to 1990, state that the Director of the Department shall prescribe rules and regulations for administration of the Act; that those rules may fix reasonable standards for life and health insurance and other benefits provided under the Act; that those rules shall require covered medical services to be rendered by licensed medical practitioners acting within the scope of their licenses; and that those rules shall establish eligibility requirements for members

and dependents. The Department has waited more than 30 years to fulfill these statutory requirements.

With respect to the Law Enforcement Training and Standards Board emergency rules titled Illinois Police Training Act (20 IAC 1720; 47 III Reg 216), Intern Training Program (20 IAC 1725; 47 III Reg 243) and Part-Time Basic Training (20 IAC 1770; 47 III Reg 253), JCAR recommended that the Board fully explain in its notice pages the emergency situation that reasonably constitutes a threat to the public interest, safety or welfare that requires the adoption of the rule upon fewer days' notice than is required by Section 5-40 of the Act.

EXTENSIONS

JCAR, with the concurrence of the respective agencies, agreed to extend the Second Notice periods for the following rulemakings an additional 45 days. These rulemakings will be considered again at the March 21 meeting.

Department of Agriculture, Grain Code (8 IAC 281; 46 III Reg 14808)

Department of Financial and Professional Regulation, Consumer Legal Funding Act (38 IAC 170; 46 III Reg 17173)

Department of Healthcare and Family Services, Hospital Services (89 IAC 148; 46 III Reg 16331)

State Board of Elections, Campaign Financing (26 IAC 100; 46 III Reg 5464) and Practice and Procedure (26 IAC 125; 46 III Reg 5499)

Office of the State Fire Marshal, Petroleum Equipment Contractor Licensing (41 IAC 172; 46 III Reg 15982); General Requirements for Underground Storage Tanks and the Storage, Transportation, Sale and Use of Petroleum and Other Regulated Substances (41 IAC 174; 46 III Reg 16029); Technical Requirements for Underground Storage Tanks and the Storage,

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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 listed in next week's *Illinois Register* and be considered at the March 21, 2023, meeting in Springfield. Further comments concerning these rulemakings should be addressed to JCAR using the contact information on page 1.

DEPT OF PUBLIC HEALTH

Sexual Assault Survivors Emergency Treatment Code
(77 IAC 545; 46 III Reg 19933) proposed 12/16/22

DEPT OF REVENUE

Retailers' Occupation Tax (86 IAC 130; 46 III Reg 18945) proposed 11/28/22

Use Tax (86 IAC 150; 46 III Reg 18967) proposed 11/28/22

Parking Excise Tax (86 IAC 195; 46 III Reg 17865) proposed 11/14/22

Electronic Filing of Returns or Other Documents
(86 IAC 760; 46 III Reg 18986) proposed 11/28/22

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Transportation, Sale and Use of Petroleum and Other Regulated Substances (41 IAC 175; 46 III Reg 16068); Administrative Requirements for Underground Storage Tanks and the Storage, Transportation, Sale and Use of Petroleum and

Other Regulated Substances (41 IAC 176; 46 III Reg 16181); Compliance Certification for Underground Storage Tanks (41 IAC 177; 46 III Reg 16206); and Underground Storage Tank Fund Eligibility and Deductible Determinations by the Office of the State Fire Marshal (41 IAC 178; 46 III Reg 16212)

Joint Committee on Administrative Rules

Senator Cristina Castro
Senator Bill Cunningham, *co-chair*
Senator Donald DeWitte
Senator Dale Fowler
Senator Kimberly Lightford
Senator Sue Rezin

Representative Eva-Dina Delgado
Representative Jackie Haas
Representative Steven Reick
Representative Ryan Spain, *co-chair*
Representative Curtis Tarver, II
Representative Dave Vella

Kim Schultz
Executive Director