

Elaine Spencer, Editor
jcar@ilga.gov

Joint Committee on Administrative Rules
Illinois General Assembly

700 Stratton Bldg. Springfield IL 62706
217/785-2254 ilga.gov/commission/jcar

VOL. 46

January 28, 2022

Issue 5

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.

Emergency Rules

COVID-19 IN SCHOOLS

The DEPARTMENT OF PUBLIC HEALTH adopted an emergency amendment to Control of Communicable Diseases Code (77 IAC 690; 46 Ill Reg 1956) effective 1/12/22, modifying an emergency rule that was effective 9/17/21 for the remainder of its 150-day term. The emergency amendment implements Executive Order 2022-3 updating DPH's protocols for addressing COVID-19 cases or exposures in K-12 schools.

School Exclusion

The emergency amendment requires students and school personnel who test positive for COVID-19 or show symptoms, regardless of vaccination status, to be excluded from school premises for a minimum of 5 days (formerly, 7-10 days). Those who show symptoms may return after

COVID-19 ACTIONS

Executive Orders of the Governor concerning the COVID-19 public health emergency can be accessed at <https://www2.illinois.gov/government/executive-orders>. Emergency rules adopted by State agencies will be summarized in The Flinn Report as they are published in the *Illinois Register*.

5 days if all symptoms have ceased for at least 24 hours, but they must wear masks at all times around others, including when outdoors, for an additional 5 days. Close contacts of confirmed or probable cases shall be excluded for at least 5 days (formerly 7-10 days) after exposure and must wear masks at all times for another 5 days after returning to school. Schools also have the option of allowing close contacts who show

(cont. page 3)

Adopted Rules

ECONOMIC DEVELOPMENT

The DEPARTMENT OF COMMERCE AND ECONOMIC OPPORTUNITY adopted amendments to the Parts titled Enterprise Zone and High Impact Business Programs (14 IAC 520; 45 Ill Reg 10200), River Edge Redevelopment Zone Program (14 IAC 524; 45 Ill Reg 10217) and Economic Development for a Growing Economy Program (EDGE) (14 IAC 527; 45 Ill Reg 10229), all effective 1/11/22, implementing provisions of the Blue Collar Jobs Act (Public Act 101-9) creating a \$20 million (per fiscal year) construction jobs tax credit program administered by DCEO. The rulemakings establish application procedures, eligibility and approval criteria, recordkeeping and other requirements for businesses seeking these tax credits. The tax

(cont. page 2)

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.

Adopted Rules

(cont. from page 1)

credit for a qualifying project is equal to 50% of the Illinois income tax withholdings attributable to the jobs the project creates; the credit increases to 75% if the project is located in an underserved area with high poverty or unemployment rates. Since 1st Notice, DCEO has clarified that the tax credit cannot reduce a business' tax liability below zero. Businesses that qualify for tax credits under the Enterprise Zone, River Edge Redevelopment Zone, EDGE or High Impact Business programs are affected.

Questions/requests for copies of the 3 DCEO rulemakings: Jolene Clarke, DCEO, 500 E. Monroe St., Springfield IL 62701, jolene.clarke@illinois.gov

■ VEHICLE REGISTRATION

The SECRETARY OF STATE adopted amendments to Certificates of Title, Registration of Vehicles (92 IAC 1010; 45 Ill Reg 6641) effective 1/13/22, replacing emergency amendments that expired on 10/2/21. The rulemaking concerns issuance of temporary registration permits (TRPs) by entities other than SOS offices to persons who have recently purchased vehicles or brought vehicles from other states to be registered in Illinois. Persons who are responsible for issuing, tracking and managing TRPs (Superusers) are required to attend annual training, which must be completed in person if there have been violations in the past

year; otherwise this training can be completed online. All information required for a TRP must be electronically printed on the TRP; merely printing the expiration month and year on the TRP is no longer an option. TRP receipts must include the licensee's or agent number issued by SOS to the Superuser. Only Illinois TRPs or 7-day drive-away permits may be issued to Illinois residents; 30-day drive-away permits may be issued to non-residents. Issuance of a TRP or 7-day drive away permit originating in another state to an Illinois resident is a violation for which the issuer will be suspended from access to the SOS TRP system for 90 days on a first violation. For a second or subsequent violation, the issuer's license will be suspended for 30 days. Since 1st Notice, SOS has clarified when in-person annual training is required. Businesses that issue TRPs are affected.

Questions/requests for copies: Pamela Wright, SOS, 298 Howlett Bldg., Springfield IL 62756, 217/785-3094, pwright@ilsos.gov

UNIVERSITY RETIREMENT

The STATE UNIVERSITIES RETIREMENT SYSTEM adopted an amendment to Universities Retirement (80 IAC 1600; 45 Ill Reg 8638) effective 1/16/22, implementing the definition of a university employee under the Illinois Pension Code as amended by PA 99-897, effective 1/1/17. In order to qualify for SURS retirement benefits, an employee must meet the payroll standard

(receive payment for their services via a voucher from the State Comptroller, or from the university's trust, federal or other funds) and also must meet either the "permanent and continuous" employment standard (the appointment does not have an end date, or will continue indefinitely in the absence of employer action to terminate it) or the "minimum continuous duration" standard (lasting at least 16 weeks or one full academic term). Rules for determining whether faculty and non-faculty positions meet these standards are included, along with a list of positions that do not meet the definition of an employee (e.g., students employed on a temporary basis, persons already receiving retirement or disability benefits from SURS). Since 1st Notice, SURS has clarified the length of an academic term for purposes of determining continuous employment.

Questions/requests for copies: Albert J. Lee, SURS, 1901 Fox Drive, Champaign IL 61820, 217-378-8861.

Proposed Rulemakings

SCHOOLS

The STATE BOARD OF EDUCATION proposed amendments to Public Schools Evaluation, Recognition and Supervision (23 IAC 1; 46 IIR Reg 1707) requiring school districts to have bullying prevention policies that meet the requirements of the School Code. These policies must be submitted to SBE for approval and re-evaluated every 2 years. If a policy does not receive SBE approval, the school or district has 60 days to correct and resubmit

the policy. If a school or district fails to submit the required policy or re-evaluation, SBE will provide technical assistance and resources enabling the school or district to fulfill these requirements.

SBE also proposed amendments to Mentoring Program for New Principals (23 IAC 35; 46 IIR Reg 1717) and New Teacher Induction and Mentoring (23 IAC 65; 46 IIR Reg 1731) implementing Public Act 102-521. The Part 35 rulemaking establishes requirements for selection and

training of experienced principals to serve as mentors for first- and second-year principals. The second year of mentoring will be offered only if the State Superintendent determines that there is sufficient funding to serve all anticipated first-year participants. If not all second-year participants can be served, priority will be given to principals in the highest need schools. The number of contact hours that the new principal must spend with the

(cont. page 5)

Emergency Rules

(cont. from page 1)

no symptoms of COVID-19 to continue attending school as long as they test negative twice within 7 days (formerly, on days 1, 3, 5, and 7) after their contact with the infected person.

Close Contacts

The emergency amendment also excludes the following persons from the definition of a close contact (meaning they are not subject to the exclusion rules for close contacts):

- Any student or school personnel age 18 or older who has received all CDC-recommended COVID-19 vaccine doses, including boosters for those who completed a 2-dose series more than 5 months previously or a 1-dose vaccination more than 2 months previously.
- Students ages 5-17 who have completed a primary vaccine series.

— Individuals who rode a bus or other transportation with a confirmed or probable case, provided both the infected and exposed individuals were correctly and consistently masked for the entire exposure period and the vehicle's windows were open or HEPA filters were in use.

— Individuals who tested positive in the 90 days prior to exposure.

— Individuals whose exposure occurred entirely outdoors.

Public and private K-12 schools, their students and personnel are affected by this emergency amendment.

HOSPITALS

DPH adopted an emergency amendment to Hospital Licensing Requirements (77 IAC 250; 46 IIR Reg 1911) effective 1/13/22 for a maximum of 150 days. These emergency rules re-establish procedures through which licensed hospitals may set up alternate care

facilities for overflow patients at remote or temporary locations, or increase bed capacity and/or re-allocate bed designations between clinical services (e.g., to from an Intensive Care Unit). Hospitals that establish alternate care facilities must notify DPH at least 24 hours in advance of opening the alternate facility, or "as soon as reasonably practical". DPH must also be notified within 10 days if the hospital increases or re-allocates beds, or takes previously increased bed capacity out of circulation, at the alternate care facility. The emergency rule also suspends various requirements for existing hospitals (e.g., minimum size of patient rooms) when necessary to respond to an influx of COVID-19 patients and establishes the minimum standards for temporary alternate care facilities.

(cont. page 4)

Emergency Rules

(cont. from page 3)

■ DISEASE CONTROL

DPH also adopted emergency amendments to Skilled Nursing and Intermediate Care Facilities Code (77 IAC 300; 46 Ill Reg 1928) effective 1/16/22 for a maximum of 150 days, replacing emergency amendments that expired on 1/15/22. These emergency amendments update incorporations by reference of federal guidance documents regarding COVID-19 infection control in long term care facilities. Each facility must maintain written infection control policies and procedures on site and make them available upon request to residents, their families or representatives, DPH, and the certified local health department. Additionally, the facility shall provide to DPH upon request a copy of any infection control recommendations made by the entity responsible for annual review of infection control policies and procedures (e.g., quality assurance committee). Staff shall be trained in infection control procedures and records of training kept for at least 3 years. Residents and staff (including contract workers and volunteers) shall be tested for communicable disease whenever an outbreak occurs in the facility, or when DPH or a certified local health department

determines that there is a high chance of transmission. When a resident or staff member tests positive for COVID-19, testing of other residents and staff who have not tested positive in the previous 90 days may be either unit-based (only residents and staff in the affected unit) or broad based (all residents and staff), and must begin no earlier than 2 days after the exposure. Immediate steps to prevent further transmission must be implemented, including but not limited to isolation/quarantine, cohorting, increased cleaning/disinfection, and use of appropriate personal protective equipment. Testing must continue every 3 to 7 days until no positive tests occur for at least 14 days. Facilities that are not required to report testing data to the National Healthcare Safety Network must report this data to DPH weekly using an online form. Nursing homes are affected by these emergency amendments.

Questions/requests for copies of the 3 DPH emergency rules: Tracey Trigillo, DPH, 524 S. Second St., 6th Fl., Springfield IL 62701, 217/782-1159, dph.rules@illinois.gov

■ TOURISM GRANTS

The DEPARTMENT OF COMMERCE AND ECONOMIC OPPORTUNITY adopted

emergency amendments to Illinois Promotion Act Programs (14 IAC 510; 46 Ill Reg 1895) effective 1/14/22 for a maximum of 150 days. An identical proposed rulemaking appears in this week's *Illinois Register* at 46 Ill Reg 1705. The emergency and proposed rules allow applications for tourism promotion grants under the Act to be submitted electronically and to be used for expenses related to festivals, including equipment rentals and hiring of temporary staff. Expenses that cannot be covered by these grants include purchase of alcoholic beverages. Grants made from the State's Local CURE Fund may cover up to 75% of eligible expenses if made to a unit of local government, a tourism/convention bureau, or a non-profit entity; grants made to a for-profit business may cover no more than 25% of eligible expenses. (Grants from DCEO's Tourism Promotion Fund may cover up to 50% of eligible expenses.) All grants are capped at \$1 million. Those affected by this emergency rule include units of local government and non-profit organizations that host festivals or promote tourism.

Questions/requests for copies/ comments on the proposed rulemaking through 3/14/22: Jolene Clarke, DCEO, 500 E. Monroe St., Springfield IL 62701, jolene.clarke@illinois.gov

Proposed Rulemakings

(cont. from page 3)

mentor (currently, at least 50 hours) will be determined by the State Superintendent. Entities other than school districts, regional offices of education, intermediate service centers, Illinois higher education institutions, and statewide organizations representing principals are no longer eligible to receive funding for the mentoring program. Amendments to Part 65 establish a competitive grant program to help school districts institute mentoring programs for first- and second-year teachers. The rulemaking also allows for both in-person and virtual participation; requires new programs for which funding has been provided to be implemented no later than the beginning of the 2022-23 school year; clarifies when and how programs in place prior to 8/20/21 may be modified if they do not meet current standards; and changes minimum funding calculations.

Questions/requests for copies/ comments on the 3 SBE rulemakings through 3/14/22: Azita Kakvand, SBE, 555 W. Monroe St., Suite 900, Chicago IL 60661, (312) 783-2757, rules@isbe.net

■ LONG TERM CARE

The DEPARTMENT OF PUBLIC HEALTH proposed a new Part titled Civil Money Penalty Reinvestment Program (77 IAC 425; 46 III Reg 1763) implementing the program in Illinois. Under federal law, a portion

of monetary penalties imposed on nursing facilities for noncompliance with Medicare or Medicaid participation rules is returned to the states in which those penalties were imposed to support programs that improve the quality of care or quality of life for nursing facility residents. The new Part establishes a grant program (Improving Quality of Life and Care (IQLC)) whose funds may be used for: supporting and protecting residents of a facility that has been closed or decertified; relocating residents from a facility that has been closed or downsized; supporting resident and family councils; facility improvement initiatives; and temporary management or receivership activities. Organizations eligible for grants include nursing facilities and their residents; professional or state nursing home associations and advocacy groups; consumer advocacy organizations; resident and family councils; quality improvement organizations; private contractors; and State long-term care ombudsman programs. Grant applications must be submitted electronically and must be approved by DPH and the federal Centers for Medicare and Medicaid Services. A maximum of \$3 million will be allocated annually to the IQLC program and the maximum individual grant is \$500,000, with the applicant providing a cost-share of 5% or \$1,000, whichever is less. Grant terms will generally be limited to 1 year and cannot exceed 3 years. IQLC grants are subject to the requirements of the Grant Accountability and Transparency

Act and the Grant Funds Recovery Act. Applications must include a complete summary of the project and a detailed line item budget. Evaluation criteria for each grant application include need, sustainability of the project, cost effectiveness, and whether the project duplicates existing programs. Those affected by this rulemaking include nursing facilities and organizations that provide advocacy or services to nursing home residents and their families.

Questions/requests for copies/ comments through 3/14/22: Tracey Trigillo, DPH, 524 S. Second St., 6th Floor, Springfield IL 62701, (217)782-1159, dph.rules@illinois.gov

■ SALES TAXES

The DEPARTMENT OF REVENUE proposed amendments to Retailers' Occupation Tax (86 IAC 130; 46 III Reg 1784) implementing two Public Acts. The rulemaking extends the sales tax exemption for menstrual pads, tampons and cups through 12/31/26 (previously, 8/18/21) and changes references to "urine testing materials" to "blood sugar testing materials". Retailers that sell menstrual hygiene or diabetic testing products are affected.

Questions/requests for copies/ comments through 3/14/22: Alexis K. Overstreet, DOR, 101 W. Jefferson St., Springfield IL 62794, (217) 782-2844.

Second Notice

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 February 15, 2022, JCAR meeting in Springfield. Other items not published in the *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.

IL GAMING BOARD

Video Gaming (General) (11 IAC 1800; 45 Ill Reg 14277) proposed 11/19/21

Joint Committee on Administrative Rules

Senator Bill Cunningham, <i>co-chair</i>	Representative Tom Demmer
Senator John F. Curran	Representative Michael Halpin
Senator Donald DeWitte	Representative Frances Ann Hurley
Senator Kimberly Lightford	Representative Steven Reick
Senator Tony Muñoz	Representative Curtis Tarver, II
Senator Sue Rezin	Representative Keith Wheeler, <i>co-chair</i>

**Kim Schultz
Executive Director**