

The Flinn Report **Illinois Regulation**

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Joint Committee on Administrative Rules
Illinois General Assembly

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Issue 20

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

■ SCHOOLS

The STATE BOARD OF EDUCATION proposed an amendment to Public Schools Evaluation, Recognition and Supervision (23 IAC 1; 46 Ill Reg 7018) and proposed a new Part titled Absenteeism and Truancy Policy (23 IAC 207; 46 Ill Reg 7027) implementing Public Act 102-157, effective 7/1/22. The PA requires every school district, charter school, alternative school, special education cooperative, and any other school receiving public funds to develop a truancy and absenteeism policy that is communicated to students and their families on an annual basis. SBE is repealing its current rules regarding absenteeism/truancy policies from Part 1 and promulgating new rules in Part 207. The new rules require that absenteeism/truancy policies in compliance with the PA and School Code be electronically filed

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*.

[Emergency Rule, Page 3](#)

[Peremptory Rule, Page 3](#)

Next JCAR Meeting:

**Tues., May 17, 11 a.m.
160 N. La Salle, Rm 600, Chicago**

with SBE no later than 9/30/22, reevaluated or updated every 2 years thereafter, published in the student handbook, and posted on the school's website. SBE will grant regional superintendents

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Adopted Rules

■ WATER/SEWER CHARGES

The DEPARTMENT OF REVENUE adopted a new Part titled Water and Sewer Assistance Charge (86 IAC 515; 46 Ill Reg 2602) effective 4/26/22, implementing PA 102-262. The Act and the new Part allow water and sewer service providers to impose a monthly charge of 10 cents on residential customers and \$5 on non-residential customers to fund low-income water and sewer assistance programs. A water or sewer provider that chooses to participate in this program must file a monthly return with DOR that includes the charges collected during the previous month. Provisions of the Retailer's Occupation Tax Act that apply to retail sellers and do not conflict with the PA also apply to the water and sewer assistance charge. Those

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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.

Adopted Rules

(cont. from page 1)

affected by this rulemaking include water and sewer service providers and customers/businesses that are served by these providers.

■ SALES TAXES

DOR also adopted amendments to Retailers' Occupation Tax (86 IAC 130; 46 Ill Reg 1784) effective 4/26/22, implementing two Public Acts. The rulemaking extends the sales tax exemption for menstrual pads, tampons and cups through 12/31/26 (previously, this exemption was scheduled to sunset on 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 of the 2 DOR rulemakings: Alexis K. Overstreet, DOR, 101 W. Jefferson St., Springfield IL 62794, (217) 782-2844.

■ HOMEOWNER ASSISTANCE

The ILLINOIS HOUSING DEVELOPMENT AUTHORITY adopted a new Part titled Homeowner Assistance Fund Programs (47 IAC 302; 46 Ill Reg 244) effective 4/29/22, replacing emergency rules that expired 3/4/22. The new Part establishes the Homeowner Assistance Fund (HAF) program funded via the federal American Rescue Plan Act (ARPA) to mitigate hardships to homeowners caused by the COVID-19 public health

emergency on or after 1/21/20. Eligible homeowners must have an annual income at or below 150% of area median income. At least 60% of available funds will be reserved for homeowners whose income is at or below 100% of the area or nationwide median income. Remaining funds will be prioritized for assistance to socially disadvantaged individuals, defined as persons whose ability to purchase or own a home has been impaired due to diminished access to credit on reasonable terms as compared to others in comparable economic circumstances, stemming from circumstances beyond the individual's control. Indicators of impairment may include being a member of a group that has been subjected to racial or ethnic prejudice or cultural bias within American society; residing in a majority-minority Census tract; having limited English proficiency; residing in a U.S. territory, Indian reservation, or Hawaiian Home Land; or living in a persistent-poverty county in which 20% or more of the population has lived in poverty over the past 30 years. In addition, IHDA may determine an individual to be socially disadvantaged in accordance with applicable law, which may reasonably rely on self-attestations. Application forms and procedures will be posted on the IHDA website in English and Spanish and made available in other languages if feasible. If an application is incomplete or deficient, IHDA will notify the applicant and allow them up to 21 days to correct the application.

HAF grants of up to \$30,000 per household may be applied to mortgage payments, principal reductions, or interest rate reductions; utility payments including electric, natural gas, and water service; internet services, including broadband; homeowner's insurance, flood insurance, or mortgage insurance; homeowner's association fees or liens; down payment assistance loans from nonprofit or government entities; delinquent property taxes; home repairs needed to maintain habitability; or other measures to prevent homeowner displacement. Eligible mortgage servicers may receive up to 3 prospective monthly mortgage payments on behalf of an eligible homeowner. An eligible mortgage servicer that receives HAF funds on behalf of an eligible homeowner must agree not to initiate foreclosure, breach of contract, or other action against the homeowner for nonpayment of the mortgage or other fees during the period covered by the grant or during a period when a State or federal foreclosure moratorium was in effect. (Foreclosure may still be pursued for other legally permissible reasons.) Funds may also be awarded to eligible agencies for counseling or educational efforts to prevent foreclosure or displacement, planning, community engagement, needs assessment, and administrative expenses (not to exceed 15% of the funding received). HAF grants may also be

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Proposed Rulemakings

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access to the Web application (IWAS) through which school truancy policies are filed so that they may review policies filed by schools in their region; this will fulfill the requirement that policies also be filed with the regional superintendent. School districts, charter schools, and non-public schools receiving public funds are affected by these rulemakings.

Questions/requests for copies/comments on the 2 SBE rulemakings through 6/27/22: Azita Kakvand, SBE, 555 W. Monroe St., Suite 900, Chicago IL 60661, 312/783-2757, rules@isbe.net

■ VEHICLE REGISTRATIONS

The SECRETARY OF STATE proposed amendments to Certificates of Title, Registration of Vehicles (92 IAC 1010; 46 Ill Reg 7682) concerning semitrailer registrations and universal special plates. This rulemaking clarifies that semitrailer registrations may be issued for trailers that are used and towed by commercial vehicles as defined in the Illinois Vehicle Code, by vehicles used in farm to market agricultural transportation, or in combination with any vehicle defined in the Vehicle Code as an apportionable vehicle. The rulemaking also increases the size of decals that may be placed on universal special plates. Businesses that use semitrailers or truck tractors are affected by this rulemaking.

■ EMERGENCY SERVICES

The DEPARTMENT OF PUBLIC HEALTH adopted an emergency amendment to the Part titled Emergency Medical Services, Trauma Center, Comprehensive Stroke Center, Primary Stroke Center and Acute Stroke Ready Hospital Code (77 IAC 515; 46 Ill Reg 7899) effective 4/26/22, modifying an emergency rule that was effective 12/27/21 for the remainder of its 150-day term. The emergency amendment clarifies that Basic Life Support (BLS)

ambulances must be equipped with a primary patient cot, a secondary patient stretcher, and with portable oxygen equipment that is secured. (These items were omitted from the original emergency rule.) Emergency Medical Services providers are affected.

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

Emergency Rule

Peremptory Rule

STATE EMPLOYEES

The DEPARTMENT OF CENTRAL MANAGEMENT SERVICES adopted a peremptory amendment to Pay Plan (80 IAC 310; 46 Ill Reg 7924) effective 4/28/22, implementing a memorandum of understanding that assigns the Licensed

Practical Nurse – Corrections position to an AFSCME bargaining unit and pay grade.

Questions/requests for copies: Jason R. Doggett, CMS, 504 Stratton Building, Springfield IL 62706, 217/782-4267, Fax: 217/524-4570, CMS.PayPlan@Illinois.gov

Questions/requests for copies/comments through 6/27/22: Pamela Wright, SOS, 298 Howlett Building, Springfield, IL 62756, pwright@ilsos.gov

STATE RETIREMENT

The STATE EMPLOYEES' RETIREMENT SYSTEM proposed amendments to The Administration and Operation of the State Employees' Retirement

System of Illinois (80 IAC 1540; 46 Ill Reg 7693). The rulemaking clarifies the method of offsetting a survivor annuity when the survivor receives occupational death benefits from the Workers' Compensation Commission or Workers' Occupational Diseases Act. The rulemaking also prohibits SERS members from rolling over refunds or accelerated pension

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Adopted Rules

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made to housing stability services (HSS) providers such as community or faith-based organizations, legal assistance groups, counseling agencies, and other entities that specialize in housing or community outreach/engagement. Grants are subject to the conditions of ARPA and the State's Grant Accountability and Transparency Act and may be recaptured in the event of default, fraud or other failure to comply with program rules. Those affected by this rulemaking include eligible households, eligible mortgage servicers, and community or non-profit organizations that qualify for HSS grants.

Questions/requests for copies: Kathryn Finn, IHDA, 111 E. Wacker Drive, Suite 1000, Chicago IL 60601.

■ CHILD CARE GRANTS

The DEPARTMENT OF HUMAN SERVICES adopted amendments to Child Care (89 IAC 50; 46 Ill Reg 1326) effective 4/26/22, replacing emergency amendments that were effective 1/1/22. The rulemaking establishes the Strengthen & Grow Child Care Grant Program, a new American Rescue Plan Act (ARPA)-funded grant program for child care providers. Day care providers are eligible for these grants if they were licensed by DCFS as of 3/11/21 (the effective date of ARPA); are currently open and accepting children on a year-round basis; have enrolled, in any given month from 1/1/20 through

12/31/22, a number of children equal to or greater than 10% of licensed capacity subsidized through the DHS Child Care Assistance Program (CCAP); and generally do not receive more than 50% of their revenue from Head Start, Early Head Start, Preschool for All or the Prevention Initiative. Grant amounts will be based on the day care provider's enrollment and on the Social Vulnerability Index (a measure of economic hardship and public health impact, created by the federal Centers for Disease Control and Prevention) of the census tract in which the provider is located. Grants will be issued on a quarterly basis, with providers reapplying and submitting a budget outlining how their grant money will be spent every 3 months. Costs covered by these grants must not have been reimbursed or covered by other grants, refundable loans or tax credits from any other source. Eligible expenses include existing staff wages and benefits; occupancy costs; materials and supplies; and professional services. At least 50% of the total amount awarded must be spent on new or expanded investments related to personnel, including but not limited to: increases in staff wages/compensation (including hazard pay or ongoing staff bonuses); new or expanded health, dental and vision insurance; new or expanded scholarships, professional development/training, paid sick or family leave, or retirement contributions; support for staff to access COVID-19 vaccines, including paid time off for vaccine appointments and

management of side effects and transportation costs to vaccine appointments; recruitment of new child care workers and retention of current workers (including recruitment/retention bonuses); efforts to strengthen workforce diversity to meet children's and families' needs; new or expanded infant and early childhood mental health consultation; and new or expanded mental health consultations and supports for staff. (DHS' previously established, ARPA-funded child care grant programs cover a more limited range of expenses.) Grant awards are subject to the Grant Accountability and Transparency Act, other applicable State and federal laws, and reporting requirements contained in these rules. Child care providers, including day care homes and centers and preschools, are affected by this rulemaking.

■ DISABILITY SERVICES

DHS also adopted amendments to Developmental Disabilities Services (89 IAC 144; 46 Ill Reg 1329) effective 4/27/22, replacing emergency amendments effective 12/28/21. The rulemaking implements the fiscal year 2022 provider rate adjustment for community-based service providers to persons with intellectual or developmental disabilities. Effective 1/1/22 or upon federal approval, whichever is later, providers will receive a rate increase sufficient to raise staff pay by \$1.50 per hour, of

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Proposed Rulemakings

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benefit payments to a Roth IRA or any other retirement account from which distributions are received on a tax-free basis (because contributions were made post-tax instead of pre-tax).

Questions/requests for copies/comments through 6/27/22: Jeff Houch, SERS, 2101 S. Veterans Parkway, PO Box 19255, Springfield IL 62794-9255, 217/524-8105, fax: 217/558-8503, jeff.houch@srs.illinois.gov

PCB RULE UPDATES

The POLLUTION CONTROL BOARD proposed amendments to Introduction (35 IAC 301; 46 III

Reg 7031), Water Quality Standards (35 IAC 302; 46 III Reg 7052), Water Use Designations and Site-Specific Water Quality Standards (35 IAC 303; 46 III Reg 7187), Effluent Standards (35 IAC 304; 46 III Reg 7213), Monitoring and Reporting (35 IAC 305; 46 III Reg 7248), Performance Criteria (35 IAC 306; 46 III Reg 7253), Sewer Discharge Criteria (35 IAC 307; 46 III Reg 7274), Disposal of Wastes from Watercraft (35 IAC 308; 46 III Reg 7608), Permits (35 IAC 309; 46 III Reg 7613) and Treatment Plant Operator Certification (35 IAC 312; 46 III Reg 7677), all implementing Executive Order 2016-13, which required agencies to identify and repeal or amend outdated,

repetitive, confusing or unnecessary rules. The amendments to these Parts are intended to be non-substantive clarifications identified by PCB and the Illinois Environmental Protection Agency.

Questions/requests for copies/comments on the 10 PCB rulemakings through 6/27/22: Clerk's Office, PCB, 100 W. Randolph St., Suite 11-500, Chicago IL 60601. Please reference Docket R18-23. Copies of the Board's opinion and order can be requested at 312/814-3620 or downloaded at pcb.illinois.gov.

Adopted Rules

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which 75 cents per hour must be allotted to direct support personnel (DSPs) and the remaining 75 cents may be split between DSPs and other frontline staff. Also effective 1/1/22 or upon federal approval, providers will receive a rate increase sufficient to raise pay for non-executive direct care staff other than DSPs to the mean hourly wage reported by the federal Bureau of Labor Statistics (BLS) for their respective job titles. Pay increases already provided either voluntarily or pursuant to a local minimum wage increase since 7/1/21 will count toward the wage increases required by this rulemaking. Community-based

providers of ID/DD services are affected.

AABD BENEFITS

Finally, DHS adopted amendments to Aid to the Aged, Blind and Disabled (89 IAC 113; 45 III Reg 15920) effective 4/26/22, implementing annual changes in the grant adjustment for Supplemental Security Income (SSI) recipients and payment rates for sheltered, personal, or nursing care for calendar year 2022. The SSI grant adjustment is being increased from \$615.90 to \$662.90 per month. Payment rates for care will range from a minimum of \$1341 per month (lowest endorsement CDL holder to

submit their Transportation Worker Identity Card via email instead of an in-person visit to a SOS facility. Those affected by this rulemaking include CDL applicants, holders, and their employers.

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

■ LONG TERM CARE GRANTS

The DEPARTMENT OF PUBLIC HEALTH adopted a new Part titled Civil Money Penalty Reinvestment Program (77 IAC 425; 46 III Reg

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Adopted Rules

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1763) effective 4/26/22, 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; these funds can then be used 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, including training, technical assistance, and quality assurance; and temporary management or receivership activities, including recruitment, training and retention. Funds cannot be used for capital or operational expenses. Organizations eligible for grants include nursing facilities; 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. Information regarding grant awards will be made available on the DPH website. 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 and grantees must be deemed qualified by the Grant Accountability and Transparency Unit. Applications must include a complete summary of the project and a detailed line item budget. Evaluation criteria for each grant application include need, capacity of the organization to execute the project, sustainability of the project, cost effectiveness, and whether the project duplicates existing programs. Those affected by this rulemaking include nursing facilities and non-profit organizations that provide advocacy or services to nursing home residents and their families.

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

■ WORKERS' COMPENSATION

The DEPARTMENT OF INSURANCE adopted a new Part titled Notice of Non-Compliance with Worker's Compensation Act

(50 IAC 2915; 45 Ill Reg 16150) effective 4/28/22, implementing the statutory transfer of the Insurance Compliance Unit (which issues notices of non-compliance with the Worker's Compensation Act to employers) from the Workers' Compensation Commission to DOI. The new Part also specifies the content of non-compliance notices and requires that DOI attempt to resolve the matter via an informal conference with the employer before referring the matter to WCC for a hearing. Businesses subject to the Worker's Compensation Act are affected.

Questions/requests for copies: George Sweeney, DOI, 122 S. Michigan Ave., 19th Fl., Chicago IL 60603-6137, 312/814-8224.

■ PROCUREMENT

The OFFICE OF THE ATTORNEY GENERAL adopted amendments to the Part titled Attorney General's Procurement (44 IAC 1300; 45 Ill Reg 14744) effective 4/28/22, implementing Public Act 101-657, which updates aspirational diversity goals for contract awards for goods and services. The rulemaking sets an aspirational (not binding) goal that 30% (formerly, 20%) of the total dollar value of OAG contracts will be awarded to businesses owned by women, minorities or persons with disabilities. Of that percentage, 16% (formerly 11%) shall be targeted for minority-owned businesses, 10% (formerly 7%) for

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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 appear in next week's *Illinois Register* and will be considered at the May 17, 2022, JCAR meeting in Chicago. Other items not published in the *Register* or The Flinn Report may also be considered. Further comments concerning these rulemakings should be addressed to JCAR using the contact information on page 1.

DEPT OF LABOR

Amusement Ride and Attraction Safety Act (56 IAC 6000; 46 Ill Reg 4502) proposed 3/18/22

SECRETARY OF STATE

Issuance of Licenses (92 IAC 1030; 46 Ill Reg 445) proposed 1/3/22

Adopted Rules

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women-owned businesses, and 4% (formerly 2%) for businesses owned by persons with disabilities or non-profit agencies serving persons with disabilities. These

goals do not apply to contracts for services related to investigations or litigation. Small businesses owned by minorities, women or persons with disabilities may be affected.

Questions/requests for copies: Christina Huddleston (217/785-3844) or Kristin Creel (217/524-1504), OAG, 500 S. Second St., Springfield IL 62701.

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**