

THE FLINN REPORT

ILLINOIS GENERAL ASSEMBLY
JOINT COMMITTEE ON ADMINISTRATIVE RULES

Elaine Spencer, Editor

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The Flinn Report is a weekly summary of regulatory actions of State agencies published in the *Illinois Register* and action taken by the Illinois General Assembly's Joint Committee on Administrative Rules (JCAR). The Flinn Report honors founding JCAR member Representative Monroe Flinn, and is designed to inform and involve the public in changes taking place in agency administration.

Proposed Rulemakings

BILINGUAL EDUCATION

The ILLINOIS STATE BOARD OF EDUCATION proposed amendments to Transitional Bilingual Education (23 IAC 228; 48 Ill Reg 15681) to align the Part with federal laws and regulations, including the Individuals with Disabilities Education Act (IDEA), Section 504 of IDEA, civil rights laws, and federal guidance regarding translation and interpretation of Individualized Education Plans (IEPs) and associated documents into the languages used by a student's parents. Instead of requiring non-English speaking parents to request translations, the school is now required to provide translations unless the parents decline. Other provisions add references to Section 504 plans (for students with disabilities who are accommodated in a regular classroom and do not have an IEP); require the State Superintendent to approve a district's federally required plans for moving

students out of transitional bilingual programs when they achieve English proficiency, or after 3 consecutive years; and clarify provisions related to parent advisory committees. The rulemaking also removes obsolete references to programs and provisions that are no longer in effect.

**Adopted Rules, Page 3
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ISBE also proposed amendments to State Seal of Biliteracy (23 IAC 680; 48 Ill Reg 15706) that remove references to the four domains of language proficiency (speaking, writing, reading and listening) and replace them with the concept of "communicative competence", defined as the knowledge of linguistic and sociolinguistic rules of a language and the ability to use such knowledge in communication. The rulemaking also replaces the term "world language" with "language other than English"

and updates web links to approved language assessments.

Questions/requests for copies/comments on the two ISBE rulemakings through 12/23/24: Azita Kakvand, ISBE, 555 W. Monroe St., Suite 900, Chicago IL 60661, 312-783-2757, rules@isbe.net

MEDICAL ASSISTANCE

The DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES proposed amendments to Medical Assistance Programs (89 IAC 120; 48 Ill Reg 15718) implementing Public Act 103-102. This rulemaking increases the personal needs allowance for long term care recipients (an amount they may keep for personal use after any other income they have is applied to the cost of their care) from \$30 to \$60 per month for individuals and from \$60 to \$120 per month for couples.

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ADOPTED RULES: Rules adopted by agencies this week. **EMERGENCY RULES:** Temporary rules adopted for no more than 150 days.
PROPOSED RULEMAKINGS: Rules proposed by agencies this week, commencing a First Notice public comment period of at least 45 days.
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/or non-profit organizations. Agencies must consider comments from these groups and attempt to minimize regulatory burdens on them.
QUESTIONS/COMMENTS: Submit mail, e-mail or phone calls to the agency personnel listed below each summary.
RULE TEXT: First Notice proposed text, emergency rule and peremptory rule text is available at the Secretary of State website (<https://www.ilsos.gov/departments/index/register/home.html>) or at the Illinois General Assembly website (<http://www.ilga.gov>) under "Illinois Register". Second Notice text for proposed rulemakings (original version with any changes made by the agency during First Notice included) is available at the JCAR website.

Proposed Rulemakings

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HFS also proposed an amendment to Medical Payment (89 IAC 140; 48 Ill Reg 15737) that expands the list and descriptions of conditions for which medically necessary orthodontic treatment will be covered. Effective 1/1/25, a dental vendor that denies a prior approval request for orthodontic treatment must inform the provider who made the request of the Handicapping Labio-Lingual Deviation Index assessment tool (HLD; used to determine the extent of dental deformities or other conditions) and inform the provider of the patient's HLD score that prompted the denial.

Questions/requests for copies/comments on the 2 HFS rulemakings through 12/23/24: Chris Gange, HFS, 201 S. Grand Ave. East, 3rd

Floor, Springfield IL 62763-0002, 217-782-1233, HFS.Rules@illinois.gov

▪ INCOME TAX

The DEPARTMENT OF REVENUE proposed amendments to Income Tax (86 IAC 100; 48 Ill Reg 15762) that reflect statutory changes and make various technical changes. New Sections have been added implementing the Reimagining Electric Vehicles (REV) Tax Credit created by PA 102-699 and the Manufacturing Illinois Chips for Real Opportunity (MICRO) Tax Credit established by PA 102-700. Provisions related to the New Construction EDGE (Economic Development for a Growing Economy) Agreements established by PA 101-9 are also added and provisions related to existing tax credits are updated. Finally, various Sections have been renumbered and cross references to those Sections have been updated. Businesses eligible for REV or MICRO

Tax Credits or other credits may be affected.

▪ RETIREMENT SAVINGS

DOR also proposed an amendment to the Part titled Secure Choice Savings Program Act (86 IAC 950; 48 Ill Reg 15825) that defines ordinary business care for purpose of compliance with the Act and makes grammatical corrections. Businesses participating in the Secure Choice Savings Program are affected.

Questions/requests for copies/comments concerning the 2 DOR rulemakings through 12/23/24: Part 100, Jennifer Uhles; Part 950, Brian Fliflet; DOR, 101 W. Jefferson St., Springfield IL 62794, 217-782-2844, REV.GCO@illinois.gov

Adopted Rules

▪ FILM PRODUCTION

The DEPARTMENT OF COMMERCE AND ECONOMIC OPPORTUNITY adopted amendments to the Part titled Illinois Film and Production Services Tax Credit Program (14 IAC 528; proposed at 48 Ill Reg 7901) effective 10/24/24 at 48 Ill Reg 15829, implementing PA 102-700. The rulemaking defines “above the line” services (rendered by the producer, executive producer, director, screenwriter, lead/supporting cast, and others with creative or financial control of a production), “below the line” services (rendered by personnel who work off camera and provide primarily technical assistance) and “related party transactions” (involving parties related by common ownership or that are material investors in the production or production company). Applicants for the film and production services tax credit must disclose all related party transactions, including the name of the related party, the nature of the relationship, and the amount of the transactions. Above the line salaries that may be claimed as Illinois labor expenditures and below the line services provided by a related party are limited to fair market value. Production spending on goods and services such as equipment and studio rental or special effects packages is also limited to fair market value. Since 1st Notice, in response to public comment, DCEO has set an effective date of 1/1/25 for the new provisions in this rulemaking; removed percentage caps on above the line and below the line services; raised the cap on Illinois resident wages and fringe benefits that can be claimed toward the credit to \$500,000 (previously \$100,000) per resident; clarified that talk shows produced for local or regional markets are not accredited productions and that prizes awarded in a game, questionnaire or contest

show do not count toward Illinois production spending. Film, TV and internet production companies producing shows in Illinois are affected.

▪ ENERGY TRANSITION

DCEO also adopted a new Part titled Energy Transition Community Grant Program (14 IAC 810; proposed at 47 Ill Reg 19269) effective 10/24/24 at 48 Ill Reg 15848, implementing the Energy Community Reinvestment Act [20 ILCS 735]. The Act and this Part establish a grant program to promote economic development in communities that have experienced closure or significantly reduced operation of a coal mine, nuclear plant or fossil fuel power plant within the past 6 years, or that anticipate closure, decommissioning or reduced operation of such facilities within the next 6 years. Up to \$40 million annually may be made available for this program. A unit of local government that is the primary applicant for a grant may include other local governments, economic development organizations, local educational institutions, or community-based groups as secondary applicants. Units of local government that were taxing authorities for a nuclear plant decommissioned prior to 1/1/21 may apply annually for grants in amounts proportional to the volume of nuclear fuel still stored at the site and the property tax payments lost due to decommissioning of the plant. Applicants must be registered at the GATA portal before submitting their applications. DCEO will post NOFOs and accept applications when funding is available. Eligible expenses that may be covered by grant funds include: research and analysis of economic impact from the facility closure; business and/or workforce

development; marketing of tourism and recreation opportunities; environmental remediation of closed sites; other local infrastructure improvements; financial assistance for unemployed, underemployed, and low-income residents; public health initiatives; or other initiatives intended to address the impact of the facility closure. Up to 3% of grant funds may be used to pay for the assistance of a third-party vendor with grant writing and implementation costs. Small businesses, municipalities, and non-profit organizations in communities undergoing energy transition are affected.

Questions/requests for copies of the 2 DCEO rulemakings: Gina Arterberry, DCEO, 1011 S. Second St., Springfield IL 62704, 217-524-8974, Gina.M.Arterberry@Illinois.gov

▪ DISEASE REPORTING

The DEPARTMENT OF PUBLIC HEALTH adopted amendments to Control of Notifiable Diseases and Conditions Code (77 IAC 690; proposed at 48 Ill Reg 9515) effective 10/23/24 at 48 Ill Reg 15900, that update reporting and testing requirements for various diseases. Cases of influenza or Respiratory Syncytial Virus (RSV) that are laboratory confirmed or result in intensive care admissions or pediatric deaths (under age 18) are reportable within 3 days (previously, 24 hours) to the local health department, which must then report to DPH within 3 additional days. Cases of COVID-19 that are laboratory confirmed or result in pediatric deaths or ICU admissions, and streptococcal infections in persons admitted to a hospital or residing in a residential facility, must also be reported to the local health

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Adopted Rules

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authority within 3 days. With regard to measles, laboratories must report any request for measles diagnostic testing to the local health authority within 3 hours, and confirmatory PCR testing for measles shall be conducted at a DPH Public Health Laboratory. Laboratories must also report patients who test positive on any test specific for or indicative of measles virus infection and forward to the DPH Laboratory any clinical materials that are PCR positive for measles. PCR test results that do not detect measles shall be forwarded to DPH upon request. Cases of toxic shock syndrome due to staphylococcus aureus infection must be reported within 3 (formerly 7) days. Local health departments, healthcare providers, and laboratories are affected by this rulemaking.

SURGERY CENTERS

DPH also adopted amendments to Ambulatory Surgical Treatment Center Licensing Requirements (77 IAC 205; proposed at 48 Ill Reg 10115) effective 10/24/24 at 48 Ill Reg 15862, implementing Public Acts 102-155 and 102-1095. This rulemaking requires Ambulatory Surgical Treatment Centers (ASTCs) that order medication at least 24 hours in advance of a surgical procedure to offer patients any unused portion of that medication upon discharge if that medication is required for continuing treatment. The rulemaking also requires ASTCs to comply with the Latex Glove Ban Act [410 ILCS 180], which requires healthcare facilities to use non-latex gloves whenever possible and to avoid using latex gloves on any patient who is allergic to latex or whose latex allergy status is unknown. Other provisions remove a requirement for examination rooms and make various technical updates.

HEALTH CARE PROVIDERS

DPH adopted amendments to Underserved Health Care Provider Workforce Code (77 IAC 590; proposed at 48 Ill Reg 10791) effective 10/23/24 at 48 Ill Reg 15882, that expand the definition of a "designated shortage area" to include a Health Professional Shortage Area as defined by the federal Department of Health and Human Services. (The Part governs an educational loan repayment program for doctors, nurses and other professionals who agree to work in designated shortage areas.) The rulemaking also clarifies and corrects other definitions.

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

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 the December 10, 2024 meeting in Chicago. Other items not published in the *Illinois Register* or The Flinn Report may also be considered. Further comments concerning these rulemakings should be addressed to JCAR at jcar@ilga.gov.

DEPT OF COMMERCE AND ECONOMIC OPPORTUNITY

Business Exit Survey (14 IAC 530; 48 Ill Reg 12684) proposed 8/23/24

DEPT OF PUBLIC HEALTH

Skilled Nursing and Intermediate Care Facilities Code (77 IAC 300; 48 Ill Reg 13167) proposed 9/6/24

Illinois Veterans' Homes Code (77 IAC 340; 48 Ill Reg 13193) proposed 9/6/24

Next JCAR Meeting: Tuesday, Nov. 12, 10:30 a.m.

Room D-1, Stratton Bldg., 401 S. Spring St., Springfield

Meeting will be live streamed on the JCAR website

Joint Committee on Administrative Rules

Senator Bill Cunningham, Co-Chair

Senator Cristina Castro

Senator Donald DeWitte

Senator Dale Fowler

Senator Napoleon Harris, III

Senator Sue Rezin

Representative Ryan Spain, Co-Chair

Representative Eva-Dina Delgado

Representative Jackie Haas

Representative Steven Reick

Representative Curtis Tarver, II

Representative Dave Vella

Kim Schultz, Executive Director ■ Kevin Kulavic, Deputy Director

700 Stratton Office Building, Springfield IL 62706

217-785-2254 ■ jcar@ilga.gov