

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.

Adopted Rules

REMOTE LEARNING

The STATE BOARD OF EDUCATION adopted amendments to Public Schools Evaluation, Recognition and Supervision (23 IAC 1; 44 Ill Reg 12073) effective 1/22/21, implementing Public Act 101-643. This rulemaking waives certain requirements normally in effect and establishes education protocols to be observed when the Governor declares a disaster due to a public health emergency; it also replaces emergency rules that expired 8/23/20 and 9/27/20. The amendments authorize the State Superintendent, on a single district, multiple district, regional or statewide basis, to mandate use of remote learning days (entirely remote instruction), or blended remote learning days (combination of in-person and remote instruction). Factors that the State Superintendent will consider include, but are not

COVID-19 ACTIONS

Numerous Executive Orders and emergency rules have been issued in response to the COVID-19 pandemic. Executive Orders of the Governor concerning this pandemic 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*.

limited to, Centers for Disease Control and Illinois Department of Public Health guidance; the effect of the public health emergency on particular areas of the State; and the effect that remote or blended learning would have on the impacted students and school districts. Once declared, remote or blended remote learning days will be counted as pupil attendance

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Emergency Rulemakings

HEALTHCARE WORKERS

The DEPARTMENT OF PUBLIC HEALTH adopted emergency amendments to Home Health, Home Services, and Home Nursing Agency Code (77 IAC 245; 45 Ill Reg 1710), Long-Term Care Assistants and Aides Training Programs Code (77 IAC 395; 45 Ill Reg 1732), and Health Care Worker Background Check Code (77 IAC 955; 45 Ill Reg 1738), all effective 1/21/21 for a maximum of 150 days. These emergency rules, which address issues related to the COVID-19 pandemic, replace previous emergency rules that were effective 8/24/20 and expired 1/20/20. Amendments to Part 245 suspend, for the duration of the Gubernatorial Disaster Proclamations, the in-person registered nurse supervisory visits and agency supervisory visits

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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

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days under the School Code. Requirements for remote/blended learning days may be met by implementation of a previously approved e-learning program. Districts that do not implement e-learning programs must draft and adopt a remote/blended learning program approved by the district superintendent. Up to 5 planning days (counted as pupil attendance days) may be used to develop, review or amend the program, which must be accessible to all district students; provide means to take attendance, verify student participation, and allow students to confer with educators as necessary; address the needs of special populations (e.g., special education students, homeless students); and provide for a transition back to on-site instruction when the emergency ends. Since 1st Notice, SBE has clarified the factors that the State Superintendent will use in deciding whether to mandate remote learning. Regarding teacher evaluations, teachers under contractual continued service who did not receive an evaluation at the normal time and whose most recent rating was “excellent” will maintain that rating, while teachers not under contract will default to a rating of “proficient”, unless a written collective bargaining contract provides otherwise. Other provisions suspend normal requirements and deadlines for certain student assessments, remediation plans for teachers that have received unsatisfactory evaluations, and for school board leadership training.

■ SPECIAL EDUCATION

SBE also adopted amendments to the Part titled Special Education (23 IAC 226; 44 Ill Reg 11766) effective 1/22/21, to comply with PA 101-124, which requires SBE to establish qualification standards for bilingual interpreters who participate in Individualized Education Program (IEP) meetings to assist parents with limited English proficiency. School districts are required to cover the expense of hiring a qualified interpreter for parents whose native language is other than English or who are deaf. If a qualified interpreter is not available, the district may use an outside vendor, including a telephonic interpreter. An interpreter will be designated as qualified if he or she meets all employment eligibility requirements of the school district; passes State-approved language proficiency tests, holds a post-secondary degree in the target language, holds an educator license with an endorsement as a transitional bilingual educator or bilingual special education specialist, or is certified as a court or medical interpreter; and completes required training and testing in special education terminology and protocol. Qualified interpreters must participate in at least 6 hours of professional development training every 2 years to maintain their status. Since 1st Notice, SBE has clarified the required procedures for use of outside vendors; for notifying special education students and parents, at least once a year and before every IEP

conference, of their right to obtain the services of an interpreter; and for documenting whether interpreter services were requested and provided for an IEP conference. SBE has also clarified that persons already holding special education licenses, endorsements or approvals are not required to complete training in special education terminology and protocols in order to become qualified interpreters. School districts, special education cooperatives, and persons seeking to become qualified interpreters are affected by this rulemaking.

Questions/requests for copies of the 2 SBE rulemakings: Azita Kakvand, SBE, 100 N. First St., Springfield IL 62777-0001, 217/782-6510, rules@isbe.net

AIR POLLUTION

The POLLUTION CONTROL BOARD adopted a new Part titled Ethylene Oxide Ambient Air Monitoring (35 IAC 249; 44 Ill Reg 2216) effective 1/21/21, implementing Public Act 101-22, which requires the Illinois Environmental Protection Agency to develop a system for monitoring ethylene oxide (EtO) emissions. The new Part, which will remain in effect for 24 months after its effective date, establishes a means for IEPA to monitor EtO emissions and collect data at five sites (Northbrook, Schiller Park, Nilwood, Alton, Bondville). Samples shall be collected every

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Proposed Rulemaking

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; 45 Ill Reg 1464) concerning resolution of mistakes in benefit calculation and eligibility for election to SERS Board seats. The rulemaking clarifies that benefit underpayments resulting from back pay awards can be addressed

without requiring approval by the SERS Board; however, a member who believes SERS has incorrectly calculated the benefit or amount of underpayment still has the right to appeal the determination to the Board. The rulemaking also clarifies that currently employed SERS members qualify for election as Board trustees if they have attained 8 years of creditable service on or before the date they are sworn into office as trustees. Retired SERS members

(annuitants) qualify for election as "annuitants for at least 1 full year" if they have received at least 12 monthly annuity payments on or before the date they are sworn into office as trustees.

Questions/requests for copies/ comments through 3/22/21: Jeff Houch, SERS, 2101 South Veterans Parkway, PO Box 19255, Springfield IL 62794-9255, 217/524-8105, fax: 217/ 5 5 7 - 3 9 4 3 , jeff.houch@srs.illinois.gov

Emergency Rulemakings

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normally required for home health, home services, or home nursing agencies; these supervisory visits may be conducted via telephone or electronic means where available. The Part 395 and 955 rulemakings allow military personnel with medical training (e.g., corpsmen, combat medics) to serve as certified nursing assistants (CNAs) in healthcare facilities while the COVID-19 emergency continues. The normal requirements for Illinois certification of CNAs licensed in another state are also suspended, provided that the out of State CNA is in good standing and is working under the direction of the Illinois Emergency Management Agency and DPH. CNAs with inactive status on the DPH Health Care Worker Registry for less than 5 years, and who were in good standing at the time they became inactive, may resume work as CNAs immediately. CNAs and

other healthcare workers are affected by these emergency rules.

HOSPITALS

DPH also adopted emergency amendments to Hospital Licensing Requirements (77 IAC 250; 45 Ill Reg 1715) effective 1/21/21 for a maximum of 150 days, replacing previous emergency rules that were effective 8/24/20 and expired 1/20/20. These emergency rules 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), for the duration of the Gubernatorial Disaster Proclamations related to COVID-19. Hospitals may increase or re-allocate beds, or take previously increased bed capacity out of circulation, without

prior notification to DPH provided DPH is notified within 30 days after the action. 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.

Questions/requests for copies of the 4 DPH emergency rules: Elizabeth Paton, DPH, 535 W. Jefferson St., 5th Fl., Springfield IL 62761, 217/782-2043, dph.rules@illinois.gov.

ETHICS REPORTS

The EXECUTIVE ETHICS COMMISSION adopted emergency amendments to Organization, Information, Rulemaking and Hearings (2 IAC

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Adopted Rules

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12 days, over a period of 24 hours, and monitoring shall continue for a period of 6 months. Monitoring results shall be made available on the IEPA website within 30 days after quality assured data is received.

Questions/requests for copies: Mark Kaminski, PCB, 100 W. Randolph St., 11-500, Chicago IL 60601, 312/814-3886, mark.kaminski@illinois.gov. Please reference docket R20-18. Copies of the Board's opinion and order may be obtained at <https://pcb.illinois.gov/>.

COMMUNITY COLLEGES

The ILLINOIS COMMUNITY COLLEGE BOARD adopted amendments to the Part titled Administration of the Illinois Public Community College Act (23 IAC 1501; 44 Ill Reg 13177) effective 1/21/21, updating provisions for capital projects. ICCB's grants to community college districts for rehabilitation and repair of existing facilities, currently known as capital renewal grants, are renamed as deferred maintenance grants. Districts must submit their annual report of construction in progress and acreage to ICCB by July 1 (formerly, August 1); this report must include estimated deferred maintenance annual costs and current backlog, all completed and in-progress projects using State funds, and all completed/in-progress local projects costing \$250,000 or more. Site purchases, utilities projects and

site improvements not related to new facilities construction will be evaluated based on the need to support existing campus facilities and services. Project priority factors in current rule (e.g., type of space, utilization of current space, program considerations) will be ranked based on a point system. The rulemaking also updates incorporations of current building and safety codes.

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

STATE EMPLOYEES

The DEPARTMENT OF CENTRAL MANAGEMENT SERVICES adopted amendments to Pay Plan (80 IAC 310; 44 Ill Reg 15842) effective 1/19/21, reflecting recent collective bargaining agreements and updates to job titles and pay rates. The rulemaking implements 4-year contracts with Teamster Locals 700 (Cook County), 330 (Fox Valley), 916 (technical/engineering employees), and Downstate Teamsters, establishing pay rates for the period 7/1/19 through 6/30/23. It also updates pay rates based on prevailing wages for boiler safety specialist and boiler safety audit specialists in the Northern Region of Illinois effective 5/1/20; adds the gaming license specialist title to an AFSCME bargaining unit; and removes an obsolete in-hire rate for Department of Natural Resources Conservation/Historic Preservation workers.

Questions/requests for copies: Jason Doggett, CMS, 504 Stratton Bldg., Springfield IL 62706, 217/782-4267, CMS.PayPlan@illinois.gov

Emergency Rulemakings

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1620; 45 Ill Reg 1700) effective 1/22/21 through 4/30/21. The emergency rule allows the Executive Director of EEC to grant, upon written request from the ultimate jurisdictional authority of an executive branch State agency, an extension of the 2/1/21 deadline for the agency to submit its 2020 annual reports regarding employee ethics training and sexual harassment prevention training. An extension of up to 60 days may be granted for good cause shown in the request.

Questions/requests for copies: Stephen Rotello, EEC, 401 S. Spring St., Springfield IL 62706, stephen.rotello@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 listed in next week's *Illinois Register* and considered at the February 16, 2021 JCAR meeting. Further comments concerning these rulemakings should be addressed to JCAR.

DEPT OF CENTL MANAGEMENT SERVICES

Pay Plan (80 IAC 310; 44 Ill Reg 19115) proposed 12/11/20

DEPT OF HEALTHCARE & FAMILY SERVICES

Medical Payment (89 IAC 140; 44 Ill Reg 17559) proposed 11/6/20

DEPT OF NATURAL RESOURCES

Boat and Snowmobile Registration and Safety (17 IAC 2010; 44 Ill Reg 18631) proposed 11/30/20

DEPT OF REVENUE

Income Tax (86 IAC 100; 44 Ill Reg 18641) proposed 11/30/20

DEPT OF TRANSPORTATION

Inspection Procedures for Multifunction School Buses (92 IAC 436; 44 Ill Reg 18890) proposed 12/4/20

Inspection Procedures for Special Vehicles (92 IAC 438; 44 Ill Reg 18896) proposed 12/4/20

Inspection Procedures for Type I School Buses (92 IAC 441; 44 Ill Reg 18910) proposed 12/4/20

Inspection Procedures for Type II School Buses (92 IAC 443; 44 Ill Reg 18916) proposed 12/4/20

Nonscheduled Bus Inspections (92 IAC 456; 44 Ill Reg 18922) proposed 12/4/20

IL COMMUNITY COLLEGE BOARD

Administration of the Illinois Public Community College Act (23 IAC 1501; 44 Ill Reg 17524) proposed 11/6/20

IL GAMING BOARD

Video Gaming (General) (11 IAC 1800; 44 Ill Reg 4265) proposed 3/20/20

OFFICE OF THE TREASURER

Achieving a Better Life Experience (ABLE) Account Program (74 IAC 722; 44 Ill Reg 18867) proposed 12/4/20

Joint Committee on Administrative Rules

Senator Bill Cunningham, *co-chair*
Senator John F. Curran
Senator Kimberly Lightford
Senator Tony Muñoz
Senator Sue Rezin

Representative Tom Demmer
Representative Michael Halpin
Representative Frances Ann Hurley
Representative Steven Reick
Representative André Thapedi
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Kim Schultz
Executive Director