

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

■ INCOME TAX

The DEPARTMENT OF REVENUE adopted amendments to Income Tax (86 IAC 100; 44 Ill Reg 11132) effective 1/29/21, replacing emergency amendments that were effective 6/17/20 and expired 11/13/20. These amendments implement provisions of Public Act 101-31 that require winnings from horse race wagering and riverboat or casino gambling in tax years 2020 and beyond to be counted as Illinois income subject to Illinois income tax for both residents and non-residents. The rulemaking also requires withholding of Illinois income tax, at the applicable individual rate, from horse racing, casino gambling and Illinois Lottery winnings paid to resident and non-resident winners. Withholding from racing and casino winnings is required only if federal withholding is required, but

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*.

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withholding from Lottery winnings is required for any prize of \$1,000 or more even if federal withholding is not required. Businesses that sell Lottery tickets and holders of racetrack, riverboat and casino licenses are affected.

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Proposed Rulemakings

■ TIME OUT & RESTRAINT

The STATE BOARD OF EDUCATION proposed amendments to Public Schools Evaluation, Recognition and Supervision (23 IAC 1; 45 Ill Reg 1777) concerning the use of restraints in special needs situations when necessary for the safety of students or staff. The rulemaking allows students to be restrained only in supine (face up) positions, and prohibits any use of prone (face down) restraint, in situations where current rule allows either supine or prone restraint. Also, the conditions that current rule, through 6/30/21, places upon the use of any restraint (e.g., no known medical contraindications, used only in an emergency when less drastic interventions have failed) are made permanent and applied only to supine restraint.

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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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Questions/requests for copies: Michael D. Mankowski, DOR, 101 W. Jefferson, Springfield IL 62794, 217/782-2844.

COLLEGE SAVINGS

The OFFICE OF THE STATE TREASURER adopted amendments to the Part titled College Savings Pool (23 IAC 2500; 44 Ill Reg 17012) effective 1/29/21, reflecting recent Public Acts. The rulemaking includes investment fees in the definition of administrative fees, costs, and expenses; updates the definition of eligible educational institutions; and updates the definition of qualified expenses (that can be paid for from a College Savings Pool account) to include the purchase of computers or peripheral equipment or internet access and related services to be used by a beneficiary for educational purposes while enrolled at an eligible institution. Room and board expenses are also qualified expenses if the student is attending the eligible institution at least half-time. Pool contributions may be made only by check, money order, electronic transfer, payroll contribution, wire transfer, or other cash payment methods allowed under the federal Internal Revenue Code. There is no minimum amount for contributions, but contributions may not be made beyond the account balance limit, which will be determined by the Treasurer using estimated costs from at least 12 eligible educational institutions in Illinois,

the Midwest, and nationwide. The Treasurer may permit trustees and custodians of gifts and transfers to minors and other legal entities to be account owners, including as part of a scholarship program, provided that the owner has a valid Social Security or taxpayer identification number, a valid U.S. street address, and (for individuals, trustees and custodians) is at least 18 years of age. Other provisions clarify the administration of the Pool, outline the duties of the Treasurer and program manager, and require the Treasurer to publicize the Pool investment policy annually by notifying all account owners in writing and publishing the policy at least 30 days before implementation in a newspaper of general circulation in both Chicago and Springfield. Persons investing in the College Savings Pool are affected by this rulemaking.

Questions/requests for copies: Joanna Coll, Treasurer's Office, 1 East Old State Capitol Plaza, Springfield IL 62701, 217/782-9722, JColl@illinoistreasurer.gov

PROFESSIONAL LICENSING

The DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION adopted amendments to the Parts titled Genetic Counselor Licensing Act (68 IAC 1251; 44 Ill Reg 16063), Marriage and Family Therapy Licensing Act (68 IAC 1283; 44 Ill Reg 16067), Naprapathic Practice Act (68 IAC 1295; 44 Ill Reg 16071), Professional Counselor

and Clinical Professional Counselor Licensing and Practice Act (68 IAC 1375; 44 Ill Reg 16073), Illinois Speech-Language Pathology and Audiology Practice Act (68 IAC 1465; 44 Ill Reg 16076), and The Structural Engineering Practice Act of 1989 (68 IAC 1480; 44 Ill Reg 16079), all effective 1/28/21, replacing emergency amendments that were effective 9/15/20. Amendments to Part 1465 allow supervision/observation of speech pathology and audiology students (required for graduation and licensure) to be conducted either on-site or remotely. The other rulemakings remove caps on hours of continuing education that can be completed online. Persons seeking to renew licenses in the regulated professions are affected by these rulemakings.

Questions/requests for copies of the 6 DFPR rulemakings: Craig Cellini, DFPR, 320 W. Washington St., 3rd Fl., Springfield IL 62786, 217/785-0813, fax 217/557-4451.

FISHING

The DEPARTMENT OF NATURAL RESOURCES adopted amendments to Sport Fishing Regulations For The Waters of Illinois (17 IAC 810; 44 Ill Reg 17038) effective 1/27/21, updating sport fishing regulations at various sites and setting June 18-22, 2021, as the annual Free Fishing Days when fishing without

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Proposed Rulemakings

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Those affected by this rulemaking include special needs students and staff.

STUDENT PERSONAL DATA

SBE also proposed a new Part titled Student Online Personal Protection (23 IAC 380; 45 Ill Reg 1802) implementing Public Act 101-516, the Student Online Personal Protection Act (SOPPA). The rulemaking establishes procedures through which parents may request copies of electronic data that schools have collected on or from their students in the course of school activities. Data that is subject to SOPPA and this Part includes, but is not limited to, information in the student's educational record or electronic mail; the student's home address, telephone number, electronic mail address, or other information that allows physical or online contact; discipline records; grades, evaluations or test results; special education data; juvenile dependency records; criminal records; medical records; health records; the student's Social Security number; biometric information; and information regarding disabilities, socioeconomic status, food purchases, political affiliations, religious information, text messages, documents, student identifiers, search activity, photos, voice recordings, or geolocation information. Requests must be

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Peremptory Rule

SNAP BENEFITS

The DEPARTMENT OF HUMAN SERVICES adopted a peremptory amendment to Supplemental Nutrition Assistance Program (SNAP) (89 IAC 121; 45 Ill Reg 2154) effective 1/29/21, implementing a provision of the federal Consolidated Appropriations Act (PL 116-260) that increases monthly maximum

SNAP allotments for all household sizes (from \$204 to \$234 for a 1-person household; from \$374 to \$430 for 2 persons; from \$535 to \$616 for 3 persons; etc.) and increases the minimum monthly allotment from \$16 to \$19.

Questions/requests for copies: Tracie Drew, DHS, 100 S. Grand Ave. E. 3rd Fl., Springfield IL 62762, 217/785-9772.

Emergency Rules

■ PESTICIDES

The DEPARTMENT OF AGRICULTURE adopted an emergency amendment to Illinois Pesticide Act (8 IAC 250; 45 Ill Reg 2071) effective 2/5/21 for a maximum of 150 days. The emergency rule imposes restrictions on the use of Dicamba pesticides for soybeans, which were recently re-registered by the federal Environmental Protection Agency for growing seasons 2021-25. The emergency rule prohibits application of Dicamba pesticides on any date after June 20, on any day when actual or forecast high temperatures are 85 degrees or above, or when winds are blowing toward a residential area or a State nature preserve. Violations of this emergency rule will be treated as a use contrary to label directions under the Illinois Pesticide Act. Soybean growers will be affected by this emergency rule.

Questions/requests for copies: John Teefey, DOA, State Fairgrounds, P. O. Box 19281,

Springfield IL 62794-9281, 217/782-9013, fax: 217/785-4505.

■ COVID-19 TRAINING

The DEPARTMENT OF PUBLIC HEALTH adopted emergency amendments to Assisted Living and Shared Housing Establishment Code (77 IAC 295; 45 Ill Reg 2076), Sheltered Care Facilities Code (77 IAC 330; 45 Ill Reg 2084), Illinois Veterans' Homes Code (77 IAC 340; 45 Ill Reg 2098), Intermediate Care for Developmentally Disabled Facilities Code (77 IAC 350; 45 Ill Reg 2108), Community Living Facilities Code (77 IAC 370; 45 Ill Reg 2123), Specialized Mental Health Rehabilitation Facilities Code (77 IAC 380; 45 Ill Reg 2133) and Medically Complex for the Developmentally Disabled Facilities Code (77 IAC 390; 45 Ill Reg 2141) all effective 1/27/21, amending previous emergency rules effective 12/18/20 for the remainder of their 150-day term.

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Adopted Rules

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a license will be permitted in all waters of the State.

Questions/requests for copies: John Heidinger, DNR, One Natural Resources Way, Springfield IL 62702, 217/782-1809.

IELRB PROCEDURES

The ILLINOIS EDUCATIONAL LABOR RELATIONS BOARD adopted an amendment to General Procedures (80 IAC 1100; 44 Ill Reg 17536) effective 2/1/21, replacing an emergency rule effective 9/9/20. The rulemaking permits e-mail service of documents such as notices of hearing, petitions, unfair labor practice charges, final IELRB opinions, and subpoenas. Documents containing protected confidential or personally identifying information, or showing interest in representation petitions, cannot be served by e-mail. Any party to an IELRB proceeding must

designate an e-mail address at which it will accept service.

Questions/requests for copies: Ellen M. Strizak, IELRB, 160 N. LaSalle St., Suite N-400, Chicago IL 60601-3103, 312/793-3170, ellen.strizak@illinois.gov

■ ILRB PROCEEDINGS

The ILLINOIS LABOR RELATIONS BOARD adopted amendments to General Procedures (80 IAC 1200; 44 Ill Reg 16957), Representation Proceedings (80 IAC 1210; 44 Ill Reg 16964), Unfair Labor Practice Proceedings (80 IAC 1220; 44 Ill Reg 16972) and Impasse Resolution (80 IAC 1230; 44 Ill Reg 16979) and repealed the Part titled Gubernatorial Designation of Positions Excluded from Collective Bargaining (80 IAC 1300; 44 Ill Reg 16988), all effective 2/1/21. The Part 1200 rulemaking establishes procedures for holding remote hearings via video conference and stipulates that, subject to appropriations, ILRB will

pay for a stenographer to record the first 2 days of a hearing. An amendment to Part 1210 clarifies that when there are 3 or more choices listed on a representation election ballot and no choice receives a clear majority, only one runoff election will be conducted to determine the winner. The Part 1220 rulemaking clarifies the process by which parties to an unfair labor practice proceeding may obtain a stay alleging unlawful collection of union dues. The Part 1230 amendment corrects a cross reference to Part 1200. Finally, Part 1300 has been repealed because the legislation these rules implemented is no longer in effect. Labor organizations, employers, and others involved in ILRB proceedings may be affected by these rulemakings.

Questions/requests for copies of the 5 ILRB rulemakings: Anna Hamburg-Gal, ILRB, 160 N. LaSalle St., Ste. 400, Chicago IL 60601, 312/793-6380, Anna.Hamburg-Gal@illinois.gov

Emergency Rules

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These emergency amendments extend by one month the deadlines for frontline clinical and management staff at affected facilities to complete COVID-19 training provided by the federal Centers for Medicare & Medicaid Services. At least 50% of staff must complete this training by 2/28/21 (previously, 1/31/21) and all staff must complete training by 3/

31/21 (previously, 2/28/21). Persons hired after 1/31/21 must complete training within 14 days after hiring. Those affected by these emergency amendments include nursing homes, assisted living facilities, sheltered care facilities, community living facilities, veteran's homes, specialized mental health facilities, and facilities for the developmentally disabled.

Questions/requests for copies of the 7 DPH emergency amendments: Elizabeth Paton, DPH, 535 W. Jefferson St., 5th Fl., Springfield IL 62761, 217/782-2043, dph.rules@illinois.gov

Proposed Rulemakings

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signed and dated and the school must verify the identity of the requester and his or her relationship to the student before releasing any data. Only one request for data may be made by a parent per State fiscal quarter (7/1-9/30, 10/1-12/31, 1/1-3/31, 4/1-6/30) and schools must provide this information within 45 days of the request. No charge may be made for electronic copies of information; a charge of up to 35 cents per page may be made for paper copies of information but parents may not be denied this information due to inability to pay.

Questions/requests for copies/comments on the 2 SBE rulemakings through 4/1/21: Azita Kakvand, SBE, 100 N. First St.,

Springfield IL 62777-0001, 217/782-6510, rules@isbe.net

■ SENIOR SERVICES

The DEPARTMENT ON AGING proposed amendments to General Programming Requirements (89 IAC 220; 45 Ill Reg 1753) and Older Americans Act Programs (89 IAC 230; 45 Ill Reg 1764) that update procedures for appealing adverse actions by DonA or an Area Agency on Aging (AAA), remove these procedures from Part 220 and move them to Part 230. Each local AAA must have written processes for individuals to register complaints regarding services or denials/terminations of services. AAAs must also hear appeals from service providers whose applications to provide services are denied or whose

contracts are terminated or not renewed. Individuals may appeal orally or in writing and an AAA has 30 days to respond. Decisions made by an AAA can be appealed to DonA. Additionally, an AAA can appeal to the Director of DonA when an area service plan or plan amendment is rejected, or when DonA rejects an AAA's recommendation concerning a service provider. Those affected by these rulemakings include Area Agencies on Aging, their service providers and their customers.

Questions/requests for copies/comments on the 2 DonA rulemakings through 4/1/21: James Shovlin, DonA, One Natural Resources Way, Suite 100, Springfield IL 62702, 217/5 2 4 - 7 9 4 5 , Aging.Rulemaking@illinois.gov

Second Notices

The following rulemakings were moved to Second Notice this week by the agencies listed below, commencing the JCAR review period. The PCB rulemaking and the IGB's 11 IAC 1900 rulemaking will be considered at the February 16, 2021, JCAR meeting. The remaining rulemakings will be considered at the March 16, 2021 meeting. Further comments concerning these rulemakings should be addressed to JCAR.

POLLUTION CONTROL BOARD

Organic Material Standards and Limitations for the Metro East Area (35 IAC 219; 44 Ill Reg 17190) proposed 10/30/20

IL GAMING BOARD

Sports Wagering (11 IAC 1900; 44 Ill Reg 19312) proposed 12/11/20

Video Gaming (General) (11 IAC 1800; 44 Ill Reg 19454) proposed 12/18/20

DEPT OF AGRICULTURE

Fairs Operating Under the Agricultural Fair Act (8 IAC 260; 44 Ill Reg 18536) proposed 11/20/20

DEPT OF FINANCIAL AND PROFESSIONAL REGULATION

Consumer Installment Loan Act (38 IAC 110; 44 Ill Reg 19409) proposed 12/18/20

State Finance Agency Act (38 IAC 160; 44 Ill Reg 19420) proposed 12/18/20

Payday Loan Reform Act (38 IAC 210; 44 Ill Reg 19429) proposed 12/18/20

Rules of Practice in Administrative Hearings (68 IAC 1110; 44 Ill Reg 19439) proposed 12/18/20

Appraisal Management Company Registration Act (68 IAC 1452; 44 Ill Reg 19441) proposed 12/18/20

Joint Committee on Administrative Rules

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Representative Tom Demmer

Senator John F. Curran

Representative Michael Halpin

Senator Kimberly Lightford

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**Kim Schultz
Executive Director**