

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

SCHOOLS

The STATE BOARD OF EDUCATION proposed amendments to Public Schools Evaluation, Recognition and Supervision (23 IAC 1; 48 Ill Reg 5208) that clarify various aspects of SBE's required bullying prevention policies for public, charter, and non-public, non-sectarian schools. When a school posts its bullying policy on its website (as already required by statute and rule), the policy must be readily accessible to parents and guardians of students and must not be password protected. If a school or school district does not have a website, the policy must be included in the student handbook and annual registration materials and the district must provide SBE with proof of publication. Any policy revision submitted to SBE must include the date the revision was adopted. If SBE receives a complaint that a school or school district has not substantially complied with its stated bullying policy, SBE will reach out to

that school/district with technical assistance upon written request from a parent or guardian. Schools and districts that have failed to submit or comply with a bullying prevention policy will be listed on SBE's website until they have been compliant for at least 30 days. Beginning in the 2024-25 school year and continuing through

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the 2030-31 school year, each school must collect data regarding verified allegations of bullying for submission to SBE in an annual report due no later than August 15. The data collected must include a record of each verified allegation of bullying and the action taken in response; whether this bullying was based on actual or perceived characteristics as listed in the School Code (e.g., race, ethnicity, religion, sexual/gender identity, socioeconomic status, physical appearance, association with any

person with these characteristics) and if so, what the relevant characteristics were; records showing that the school adhered to its bullying prevention policy, including parental notification within 24 hours of a bullying incident; the number of safety plans issued to students as the result of a bullying investigation; and any other information pertinent to the investigation and findings. Upon written request of a parent or guardian of a child enrolled in any school district, charter school, or non-public non-sectarian school, SBE must release to that parent or guardian non-identifiable data on the number of verified bullying allegations and incidents in that school or district.

Questions/requests for copies/comments through 5/20/24: Azita Kakvand, SBE, 555 W. Monroe St., Suite 900, Chicago IL 60661, 312-783-2757, rules@isbe.net

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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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▪ BANKS

The DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION proposed a new Part titled Banking Development District Act (38 IAC 346; 48 Ill Reg 5221) implementing Public Act 102-802, the Illinois Banking Development District Act, which was effective 1/1/23. The Act and the new Part are intended to encourage establishment of banking branches to provide banking services in areas that are not adequately served by existing banks. Units of local government may join with depository institutions to create banking development districts (BDDs) approved by DFPR and the State Treasurer. The new Part outlines the application process for creating a BDD, which includes a pre-application conference to discuss the need for the

proposed district and identify any needed supporting information. The contents of the application, standards for review, and requirements for annual reports to DFPR are also included. Those affected by this rulemaking include financial institutions and units of local government.

Questions/requests for copies/comments through 5/20/24: Craig Cellini, DFPR, 320 W. Washington St., 2nd Floor, Springfield IL 62786, 217-785-0810, fax 217-557-4451, Craig.cellini@illinois.gov

▪ TAX CREDITS

The DEPARTMENT OF REVENUE proposed an amendment to Income Tax (86 IAC 100; 48 Ill Reg 5234) implementing PA 102-700, which created the Manufacturing Illinois Chips for Real Opportunity (MICRO) investment tax credit program. This tax credit will be awarded for tax years beginning on or after 1/1/25, for

investments in qualified property (e.g., buildings, machinery, equipment) placed in service at the site of a MICRO Illinois project established under an agreement between the taxpaying entity and the Department of Commerce and Economic Opportunity (DCEO). The amount of the credit is 0.5% of the depreciation basis of the qualified property for the tax year in which the property is placed in service and will apply only to that tax year, unless the amount of the credit exceeds the taxpayer's tax liability for that year, in which case the excess credit may be carried forward and applied to the taxpayer's tax liability for the following 5 tax years. Businesses that participate in the MICRO Program are affected.

Questions/requests for copies/comments through 5/20/24: Jennifer Uhles, DOR, 101 W. Jefferson St., Springfield IL 62794, 217-782-2844, REV.GCO@illinois.gov

Adopted Rules

▪ **DISABILITY SERVICES**

The DEPARTMENT OF HUMAN SERVICES adopted amendments to the Part titled Medicaid Home and Community-Based Services Waiver Program for Individuals with Developmental Disabilities (59 IAC 120; proposed at 47 Ill Reg 3904) effective 3/21/24 at 48 Ill Reg 5279, implementing updated requirements for the aforementioned federal Medicaid Waiver program. The rulemaking provides uniform direction for individuals, guardians, provider agencies, and Independent Service Coordination (ISC) agencies that administer services provided under the Adults with Developmental Disabilities Waiver (including community day services, Community Integrated Living Arrangements, group homes, habilitation services, and supported employment) for persons age 21 and older, as well as services provided under the Children's Residential and Children's Support Waivers for those ages 3-21. The rulemaking aligns the Part with federal Home and Community-Based Services (HCBS) regulations regarding conflict of interest-free case management (an entity providing case management cannot also be a service provider for, or be related to or have financial responsibility for, the individual being served), person-centered planning, and the settings where services may be provided. Other provisions add, remove or update definitions; address individual rights to privacy, dignity, and respect and freedom from coercion; prohibit or severely limit the use of restraint, seclusion, and time-out to address problematic behaviors; and outline the procedures to be followed when a service provider must reduce or terminate services to an individual. Since 1st Notice, in response to public comment, DHS has clarified the responsibilities of ISCs

and providers and modified various aspects of the appeal process for individuals who are contesting a decision to deny or remove them from waiver-funded services. Instead of requiring an individual to file an appeal with the Department of Healthcare and Family Services when the informal DHS review process upholds an adverse decision, an appeal to HFS will be automatically filed when DHS has decided against an individual. Agencies that provide HCBS Waiver services are affected.

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

▪ **FOOD HANDLING**

The DEPARTMENT OF PUBLIC HEALTH adopted amendments to the Part titled Food Code (77 IAC 750; proposed at 47 Ill Reg 17932) effective 3/22/24 at 48 Ill Reg 5339, that adopt and incorporate the latest (2022) version of the federal Food and Drug Administration Food Code, update definitions to align with the FDA Code, and update provisions for inspection to reflect recent amendments to the Illinois Food, Drug and Cosmetic Act [410 ILCS 620] and adoption of the Latex Glove Ban Act [410 ILCS 180]. The rulemaking updates criteria for Category I facilities (those with complex food preparation or packaging processes, requirements for prolonged time and temperature control, or service to vulnerable populations such as children or the elderly), Category II facilities (have less complex preparation processes and serve food immediately after preparation), and Category III facilities (low risk facilities that merely reheat or chill processed food or serve items that do not need time or temperature control). Items to be noted in food

establishment inspections effective 1/1/25 include allergen notices, default beverages included in children's meals (e.g., nonfat, nondairy or 1% milk, 100% fruit or vegetable juice with no added sweeteners), and use of non-latex gloves for food handling and preparation. Food establishment employees who are ill must also observe any applicable exclusions or restrictions in the Control of Notifiable Diseases and Conditions Code (77 IAC 690) and these restrictions must be enforced by the owner, manager or other person in charge of the establishment. Those affected by this rulemaking include restaurants, cafeterias, grocery stores, taverns and other businesses that prepare, serve or sell food.

▪ **BUILDING CODES**

DPH also adopted an amendment to Illinois Modular Dwellings and Mobile Structures Code (77 IAC 880; proposed at 47 Ill Reg 18891) effective 3/20/24 at 48 Ill Reg 5355, updating contact information for obtaining copies of the International Code Council residential construction codes that are incorporated in this Part.

Questions/requests for copies of the 2 DPH rulemakings: Tracey Trigillo, DPH, 524 S. Second St., 6th Floor, Springfield IL 62701, 217-782-1159, dph.rules@illinois.gov

▪ **ENVIRONMENTAL LABS**

The ILLINOIS ENVIRONMENTAL PROTECTION AGENCY adopted amendments to Environmental Laboratory Certification Fee Rules (35 IAC 185; proposed at 47 Ill Reg 13743) and Accreditation of Environmental Laboratories (35 IAC 186; proposed at

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Adopted Rules

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47 Ill Reg 13750) effective 3/19/24 at 48 Ill Reg 5264 and 5271. Amendments to Part 185 clarify that the renewal period for a certificate of accreditation (COA) begins when the participating laboratory receives its renewal application packet (which occurs no less than 60 days before the laboratory's current COA expires) and ends when the laboratory receives its new COA. The rulemaking also adds a \$500 fee for each laboratory's request to change a non-expired COA outside of the renewal period, but there is no limit to the number of changes that can be submitted per request. The Part 186 rulemaking adds a new incorporation by reference for approved laboratory testing methods.

Questions/requests for copies of the 2 IEPA rulemakings: Rebecca Strauss, IEPA, 1021 N. Grand Ave. East, PO Box 19276, Springfield IL 62794-9276, 217-557-1451, rebecca.strauss@illinois.gov.

STATE TRAVEL

The DEPARTMENT OF CENTRAL MANAGEMENT SERVICES adopted an amendment to Travel (80 IAC 2800; proposed at 47 Ill Reg 14148) effective 3/19/24 at 48 Ill Reg 5259, clarifying that State employees on travel status may stay in their own owned or rented properties, including motor homes, and be reimbursed 90% (formerly, 75%) of the applicable rate per day for lodging in hotels/motels. Platform fees, taxes and cleaning fees associated with a short-term rental are included in reimbursable expenses; security deposits are not. The rulemaking also removes specific reimbursement rates for mortgages or leases that had been designated by the Governor's Travel Control Board, as CMS now applies rates set by the Travel Regulation Council in 80 IAC 3000 to all State agencies. Since 1st Notice, CMS clarified how daily rate reimbursement will be prorated for persons who occupy a rented property for less than a full month while on State business.

Questions/requests for copies: State Travel Coordinator, Governor's Travel Control Board, 100 E. Converse St., Springfield IL 62702, 217-782-2141, travel@CMS.illinois.gov

DOR REPEALERS

The DEPARTMENT OF REVENUE repealed the Parts titled County Water Commission Retailers' Occupation Tax (86 IAC 630; proposed at 47 Ill Reg 17384), County Water Commission Service Occupation Tax (86 IAC 640; proposed at 47 Ill Reg 17392) and County Water Commission Use Tax (86 IAC 650; proposed at 47 Ill Reg 17398) all effective 3/25/24 at 48 Ill Reg 5364, 5366 and 5368. PA 96-1389 abolished these taxes effective 6/1/16.

Questions/requests for copies of the 3 DOR rulemakings: Kimberly Rossini, DOR, 101 W. Jefferson St., Springfield IL 62794, 217-782-2844, REV.GCO@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 April 16, 2024 meeting in Springfield. 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 CENTRAL MGMT SERVICES

Extensions of Jurisdiction (80 IAC 305; 48 Ill Reg 81) proposed 1/5/24

DEPT OF INSURANCE

Licensing of Public Adjusters (50 IAC 3118; 47 Ill Reg 18857) proposed 12/26/23

STATE BOARD OF EDUCATION

College and Career Pathway Endorsement System (23 IAC 258; 47 Ill Reg 16343) proposed 11/17/23

DEPT OF FINANCIAL AND PROFESSIONAL REGULATION

Credit Union Community Reinvestment (38 IAC 185; 48 Ill Reg 621) proposed 1/12/24

Bank Community Reinvestment (38 IAC 345; 48 Ill Reg 695) proposed 1/12/24

Mortgage Community Reinvestment (38 IAC 1055; 48 Ill Reg 765) proposed 1/12/24

Rules Governing the Request for Reconsideration of Examination Findings (38 IAC 385; 48 Ill Reg 759) proposed 1/12/24

Next JCAR Meeting: Tuesday, April 16, 10:30 a.m.

Room C-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