

AGENDA ITEM 5.

PROPOSED PROGRAM RULE AND AMENDMENT

Submitted for: Action

Summary: This item reports on rulemaking in relation to two sections of ISAC's administrative rules. The first is a new section that addresses a new grant program and the second addresses an amendment to the General Provisions as they relate to audits of institutions of higher education.

First, Public Act 99-0199, effective January 1, 2016, charges ISAC with administering a Grant Program for Exonerees (Part 2743). The grant is intended for Illinois residents who have received a gubernatorial pardon on the basis of innocence or have received a certificate of innocence from a circuit court. The grants would cover tuition and fees at an Illinois public university or community college, plus costs associated with obtaining a high school equivalency certificate for recipients who have not yet received a high school diploma or equivalent.

The second proposed rulemaking activity is a proposed amendment to the Audit and Investigations section of the General Provisions of ISAC's administrative rules. The amendment will allow program reviews/audits to be scheduled using a risk-based approach and considering available resources, rather than by a set schedule.

Text of the proposed rule and amendment was published in the [Illinois Register](#) on September 18, 2015, triggering a 45-day public comment period that will end on November 2, 2015. The full text and Notices are included in this item.

According to the rulemaking process, the commission shall review the proposed rules and all public comments. The policy behind this rule is to allow the commission to address any changes that the commission may choose to make in light of the public comment(s). It is unknown at this time whether public comments that would require material changes to these rules will be submitted after today and before November 2, 2015. Therefore, the commission's approval of these rules will be conditioned upon the absence of public comment(s) after today that would require a material modification to the amendment and/or rule. Following the commission's approval of the proposed program rule and amendment and after the public comment period has ended, the Executive Director may direct staff to submit the proposed program rule and amendment to the Joint Committee of Administrative Rules (JCAR) thus initiating the second 45-day review period and the JCAR hearing after which, if no objection is taken by JCAR, the Executive Director will move forward to adopt the rules.

Action requested: That the Commission approve the following resolution:

“BE IT RESOLVED that the Commission accepts the proposed program rule and amendment, barring a public comment or other cause for a material modification, for submission to the Joint Committee on Administrative Rules (JCAR) and that the Commission further authorizes the Executive Director to proceed with adopting the program rule and amendment if no final objection is received from JCAR.

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ILLINOIS STUDENT ASSISTANCE COMMISSION

NOTICE OF PROPOSED RULE

- 1) Heading of the Part: Grant Program for Exonerees
- 2) Code Citation: 23 Ill. Adm. Code 2743
- 3)

<u>Section Numbers:</u>	<u>Proposed Action:</u>
2743.10	New Section
2743.15	New Section
2743.20	New Section
2743.30	New Section
2743.40	New Section
- 4) Statutory Authority: Implementing and authorized by Section 62 of the Higher Education Student Assistance Act [110 ILCS 947/62].
- 5) A Complete Description of the Subjects and Issues Involved: The proposed rules govern the administration of the Grant Program for Exonerees. Proposed rules for the program set forth the applicant eligibility requirements, program procedures and institutional procedures for Illinois residents who have received a gubernatorial pardon on the basis of innocence or have received a certificate of innocence from a circuit court to receive grants that would cover tuition and fees at an Illinois Public university or community college, plus (for recipients who have not yet received a high school diploma or equivalent) costs associated with obtaining a high school equivalency certificate.
- 6) Published studies or reports, and sources of underlying data, used to compose this rulemaking: Public Act 99-0199, effective January 1, 2016
- 7) Will this rulemaking replace an emergency rule currently in effect? No
- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Does this rulemaking contain incorporations by reference? No
- 10) Are there any other proposed rulemakings pending on this Part? No
- 11) Statement of Statewide Policy Objectives: This rulemaking does not create or expand a state mandate as defined in Section 3(b) of the State Mandates Act [30 ILCS 805/3(b)] and does not necessitate a local government to establish, expand or modify its activities in such a way as to necessitate additional expenditures from local revenues.

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- 12) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Interested parties may submit comments in writing within 45 days after publication to:

Lynn Hynes
Agency Rules Coordinator
Illinois Student Assistance Commission
1755 Lake Cook Road
Deerfield IL 60015

Telephone: (847) 948-8500, ext. 18032
Email: lynn.hynes@isac.illinois.gov
Fax: 847-831-8299

- 13) Initial Regulatory Flexibility Analysis:

- A) Types of small businesses, small municipalities and not for profit corporations affected: None
- B) Reporting, bookkeeping or other procedures required for compliance: None
- C) Types of professional skills necessary for compliance: None

- 14) Regulatory Agenda on which this rulemaking was summarized: July 2015

The full text of the proposed rule begins on the next page:

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NOTICE OF PROPOSED RULE

TITLE 23: EDUCATION AND CULTURAL RESOURCES

SUBTITLE A: EDUCATION

CHAPTER XIX: ILLINOIS STUDENT ASSISTANCE COMMISSION

PART 2743 GRANT PROGRAM FOR EXONEREES

Section

- | | |
|---------|--------------------------|
| 2743.10 | Summary and Purpose |
| 2743.15 | Definitions |
| 2743.20 | Applicant Eligibility |
| 2743.30 | Program Procedures |
| 2743.40 | Institutional Procedures |

AUTHORITY: Implementing and authorized by Section 62 of the Higher Education Student Assistance Act [110 ILCS 947/62].

SOURCE: Adopted at 39 Ill. Reg. ____, effective _____.

Section 2743.10 Summary and Purpose

- a) The Grant Program for Exonerees provides direct grant assistance to an individual who has received a pardon from the Governor of the State of Illinois stating that such a pardon is issued on the grounds of innocence of the crime for which he or she was imprisoned or an individual who has received a certificate of innocence from a circuit court pursuant to Section 2-702 of the Code of Civil Procedure. Grants are limited based on funding levels appropriated by the Illinois General Assembly.
- b) This Part establishes rules which govern the Grant Program for Exonerees. Additional rules and definitions are contained in General Provisions, 23 Ill. Adm. Code 2700.

Section 2743.15 Definitions

"Exonerated Person" – An individual who has received a pardon from the Governor of the State of Illinois stating that such a pardon is issued on the

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grounds of innocence of the crime for which he or she was imprisoned, or an individual who has received a certificate of innocence from a circuit court.

"Grant Funds" – Full or part-time tuition and mandatory fees at a public university or community college for undergraduate or graduate study.

In addition, the costs associated with obtaining a high school equivalency certificate from an Illinois Community College Board-approved provider and these costs shall include the payment of the cost of the high school equivalency test and up to one retest on each test module; and

any administrative fees that may be required in order to obtain an Illinois high school equivalency certificate or an official transcript of test scores after successful completion of the high school equivalency test.

Section 2743.20 Applicant Eligibility

- a) A qualified applicant shall:
 - 1) be a resident of Illinois;
 - 2) have received
 - A) a pardon issued on the grounds of innocence; or
 - B) a certificate of innocence from a circuit court;
 - 3) be an exonerated person who:
 - A) has not yet received a high school diploma or a high school equivalency certificate and is completing a high school equivalency preparation course through an Illinois Community Board-approved provider and/or is seeking an Illinois high school equivalency certificate; or
 - B) is enrolled at an ISAC-approved public university or community college; and

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- C) is enrolled in an eligible degree or certificate program (34 CFR 668.8) for either a semester or quarter term, throughout the institution's tuition refund/withdrawal adjustment period;
 - 4) maintain satisfactory academic progress as determined by the institution;
 - 5) not have to demonstrate financial need to receive this grant.
- b) In any regular school year in which the qualified applicant accepts or receives financial assistance through the Monetary Award Program (23 Ill. Admin. Code 2735), the qualified applicant shall not be eligible for assistance under this Part.

Section 2740.30 Program Procedures

- a) All applicants annually must complete an ISAC application for the Grant Program for Exonerees.
 - 1) Applications are available at ISAC's website, ISAC's Springfield, Deerfield and Chicago offices.
 - 2) If the application is incomplete, ISAC will notify the applicant, who will have an opportunity to furnish the missing information. The application will only be considered for processing as of the date the application is complete and received at ISAC's Deerfield office.
 - 3) A qualified applicant must also submit any forms required for the receipt of the Grant Program for Exonerees.
- b) Benefits are limited to the full-time enrollment equivalent of eight semesters or twelve quarters of payment for undergraduate or graduate study. Recipients may accumulate up to 48 eligibility units.
- c) ISAC shall select the recipients from among those who have submitted complete applications, including qualified new applicants and those who filed timely renewal applications and have supplied information required.
- d) The total number of grants awarded in a given fiscal year is contingent upon available funding. If funding is insufficient to pay all eligible applicants,

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awarding will be based on the date the completed application is received in ISAC's Deerfield office. Preference may be given to renewal applicants provided that the recipient continues to meet the eligibility requirements.

- e) Each qualified applicant who is selected to receive a Grant Program for Exonerees shall be notified. Applicants not receiving the grant will be notified as well.
- f) The Grant Program for Exonerees may be used to pay costs associated with obtaining a high school equivalency certificate, and up to one retest on each test module.
- g) The Grant Program for Exonerees may be used to pay costs associated with obtaining an Illinois high school equivalency certificate, or an official transcript of test scores after successful completion of the high school equivalency test.
- h) ISAC pays grant funds directly to the institution of record in the name of the recipient, however, ISAC reserves the right to reimburse costs associated with obtaining a high school equivalency certificate directly to the qualified applicant.

Section 2740.40 Institutional Procedures

- a) Institutions shall submit payment requests to ISAC.
- b) Funds shall be remitted by ISAC to participating institutions on behalf of the applicant.
- c) The Grant Program for Exonerees funds shall be applicable only to tuition and mandatory fees and only for two semesters or three quarters in a regular school year.
- d) In the case of a recipient seeking an Illinois high school equivalency certificate, funds shall be applicable only to pay costs associated with obtaining a high school equivalency certificate and up to one retest on each test module.
- e) The Grant Program for Exonerees funds shall be applicable to pay fees associated with obtaining an Illinois high school equivalency certificate, or an official transcript of test scores.

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- f) The total amount of Grant Program for Exonerees funds awarded pursuant to Section 2740.30(b) to a qualified recipient in a given academic year when added to other financial aid available to the qualified recipient for that year, shall not exceed the cost of attendance.
- g) Upon receipt of grant funds, the institution shall verify the recipient's enrollment status for the term for which the award was intended.
- h) Upon receipt of the grant funds, if the recipient has withdrawn from enrollment for the terms for which the award was intended, the institution shall return the amount of the grant payment to ISAC.
- i) To provide sufficient time for processing and voucherizing through the State Comptroller's Office in Springfield, all payment requests must be received by ISAC no later than July 1.

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- 1) Heading of the Part: General Provisions
- 2) Code Citation: 23 Ill. Adm. Code 2700
- 3) Section Numbers: 2700.60 Proposed Action: Amendment
- 4) Statutory Authority: Implementing the Higher Education Student Assistance Act [110 ILCS 947]; Title IV of the Higher Education Act of 1965, as amended (20 USC 1070 et seq., as amended by P.L. 105-244); and authorized by Section 20(f) of the Higher Education Student Assistance Act [110 ILCS 947/20(f)].
- 5) A Complete Description of the Subjects and Issues Involved: ISAC seeks to allow the audits to be scheduled using a risk based approach and considering available resources.
- 6) Published studies or reports, and sources of underlying data, used to compose this rulemaking: None
- 7) Will this proposed rulemaking replace an emergency rule currently in effect? No
- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Does this proposed rulemaking contain incorporations by reference? No
- 10) Are there any other rulemakings pending on this Part? No
- 11) Statement of Statewide Policy Objectives: This rulemaking does not create or expand a state mandate as defined in Section 3(b) of the State Mandates Act [30 ILCS 805/3(b)] and does not necessitate a local government to establish, expand or modify its activities in such a way as to necessitate additional expenditures from local revenues.
- 12) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: Persons who wish to comment on this proposed rulemaking may submit written comments no later than 45 days after the publication of this notice to:

Lynn Hynes
Agency Rules Coordinator

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Illinois Student Assistance Commission
1755 Lake Cook Road
Deerfield IL 60015

Telephone: (847) 948-8500, ext. 18032
Email: lynn.hynes@isac.illinois.gov
Fax: 847-831-8299

13) Initial Regulatory Flexibility Analysis:

- A) Types of small businesses, small municipalities and not for profit corporations affected: None
- B) Reporting, bookkeeping or other procedures required for compliance: None
- C) Types of professional skills necessary for compliance: None

14) Regulatory Agenda on which this rulemaking was summarized: July 2015

The full text of the Proposed Amendment begins on the following page:

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NOTICE OF PROPOSED AMENDMENT

TITLE 23: EDUCATION AND CULTURAL RESOURCES

SUBTITLE A: EDUCATION

CHAPTER XIX: ILLINOIS STUDENT ASSISTANCE COMMISSION

PART 2700 GENERAL PROVISIONS

Section

2700.10	Summary and Purpose
2700.15	Incorporations by Reference
2700.20	Definitions
2700.30	General Institutional Eligibility Requirements
2700.40	General Applicant Eligibility Requirements
2700.50	Determining Applicant Eligibility
2700.55	Use, Security and Confidentiality of Information
2700.60	Audits and Investigations
2700.70	Appeal Procedures
2700.80	Contractual Agreement Requirements

AUTHORITY: Implementing the Higher Education Student Assistance Act [110 ILCS 947]; Title IV of the Higher Education Act of 1965, as amended (20 USC 1070 et seq., as amended by P.L. 105-244); and authorized by Section 20(f) of the Higher Education Student Assistance Act [110 ILCS 947/20(f)].

SOURCE: Adopted at 9 Ill. Reg. 20783, effective January 1, 1986; amended at 11 Ill. Reg. 3167, effective January 29, 1987; amended at 11 Ill. Reg. 14099, effective August 10, 1987; amended at 12 Ill. Reg. 11510, effective July 1, 1988; amended at 13 Ill. Reg. 8626, effective July 1, 1989; transferred from Chapter IX, 23 Ill. Adm. Code 1700 (State Scholarship Commission) to Chapter XIX, 23 Ill. Adm. Code 2700 (Illinois Student Assistance Commission) pursuant to P.A. 86-168, effective July 1, 1989, at 13 Ill. Reg. 17854; amended at 14 Ill. Reg. 10538, effective July 1, 1990; amended at 16 Ill. Reg. 11206, effective July 1, 1992; amended at 17 Ill. Reg. 10541, effective July 1, 1993; amended at 18 Ill. Reg. 10282, effective July 1, 1994; amended at 19 Ill. Reg. 8343, effective July 1, 1995; amended at 20 Ill. Reg. 9170, effective July 1, 1996; amended at 21 Ill. Reg. 11066, effective July 18, 1997; amended at 22 Ill. Reg. 11072, effective July 1, 1998; amended at 23 Ill. Reg. 7550, effective July 1, 1999; amended at 24 Ill. Reg. 9121, effective July 1, 2000; amended at 25 Ill. Reg. 8383, effective July 1, 2001; amended at 26 Ill. Reg. 9980, effective July 1, 2002; amended at 27 Ill. Reg. 10320, effective July 1, 2003; amended at 29 Ill. Reg. 9884, effective July 1, 2005; amended at 30 Ill. Reg. 11600, effective

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July 1, 2006; amended at 31 Ill. Reg. 9478, effective July 1, 2007; amended at 32 Ill. Reg. 10269, effective July 1, 2008; amended at 33 Ill. Reg. 9742, effective July 1, 2009; amended at 34 Ill. Reg. 8543, effective July 1, 2010; amended at 37 Ill. Reg. 9497, effective July 1, 2013; amended at 38 Ill. Reg. 13356, effective July 1, 2014; amended at 39 Ill. Reg. 8390, effective July 1, 2015; amended at 39 Ill. Reg. _____, effective _____.

Section 2700.60 Audits and Investigations

- a) ISAC shall audit participating institutions of higher learning. All postsecondary~~Postsecondary~~ institutions participating in ISAC gift assistance programs shall be audited for compliance with ISAC administered gift assistance programs on a schedule that is determined based on a risk assessment and the availability of ISAC resources. The factors used to determine when a review will be scheduled may include, but are not limited to the following: dollar amounts awarded to the school for ISAC gift assistance programs, time elapsed since the last ISAC review, the institution's external or internal audit findings in the area of financial aid administration, ED findings or issues noted, results of investigations conducted by parties such as Inspectors General or Attorneys General, substantial increases in students awarded ISAC gift assistance, evidence that the institution is experiencing difficulty meeting the requirements of ISAC's rules or federal regulations, or issues in past audits conducted by ISAC. ~~once every three years (schedule permitting) unless more frequent audits appear to be necessary due to circumstances such as: substantial increases in student enrollment, evidence that the institution is experiencing difficulty meeting the requirements of ISAC's rules or federal regulations, or discrepancies in past audits conducted by ISAC.~~ Secondary institutions may be audited when ISAC has a complaint indicating an audit is appropriate. Audits shall usually be announced, but ISAC reserves the right to make unannounced audits.
- b) ISAC shall have access to all records related to ISAC programs. These records include, but are not limited to: admission records, financial records, registration records, attendance and enrollment records, financial aid transcripts, grades, academic transcripts and records maintained in accordance with ED verification procedures.
- c) ~~ISAC audits shall be conducted in accordance with generally accepted audit standards as promulgated by the U.S. General Accounting Office publication "Standards for Audit of Governmental Organizations, Program Activities and~~

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| **Functions," where applicable.**

- | ④ The institution shall be extended an opportunity to review and comment on the auditor's preliminary findings before the final audit report is submitted to the institution's chief executive officer. Audit findings may be appealed in accordance with Section 2700.70 (Appeal Procedures).
- | ④ If an audit identifies gift assistance funds **that which** were claimed on behalf of ineligible students, the funds shall be repaid to ISAC by the institution.
- | ④ **ISAC may visit institutions to conduct investigations related to fraud and abuse of its programs. Campus administrators and/or campus security police may be consulted as part of any ongoing investigation.**

(Source: Amended at 39 Ill. Reg. _____, effective _____)