

AGENDA ITEM 4.

CERTAIN RULES AMENDMENTS

Submitted for: Action

Summary: This item reports and seeks Commission approval of proposed amendments to the internal administrative rules of the Illinois Student Assistance Commission (ISAC) titled “Public Information, Rulemaking and Organization” and “Information Requests” (collectively, “internal rules”). The proposed amendments, if adopted, would (1) streamline agency rulemaking procedures for Commission approval of proposed program rules, amendments, or repeals; (2) amend the number of Commissioners required to establish a quorum; (3) delete the ten day additional notice requirement regarding meetings ; (4) update sections of the rules containing agency contact information; and (5) summarize ISAC’s organizational structure, including clarifying that the Internal Auditor, General Counsel and Chief Investment Officer have dotted line reporting authority to the Commission and are not direct reports as stated in the July 8, 2011 Commission meeting resolution.

ISAC is subject to two different rulemaking procedures. The first involves rules that govern the programs ISAC administers (hereinafter “program rules”). Program rules are subject to review and comment by both the public and the Joint Committee on Administrative Rules (hereinafter “JCAR”). The second involves the rules that govern ISAC’s internal administration (hereinafter “internal rules”). These rules may be amended simply by vote of the Commission.

This agenda item affects ISAC’s internal rules governing procedures for adopting program rules. At this time, internal rules require staff to submit changes to program rules to the Secretary of State (SOS) for publication in the Illinois Register, the State’s official documentation of rules and regulations promulgated by state entities. The publication commences a 45-day public comment period known as the “first notice period.” Please note that, before publication in the Illinois Register, it is customary (though not required) that any proposed rule changes are presented to the Commission as an information item. Comments received from the public during the first notice period are reviewed by staff and may be incorporated into the proposed rule or amendment. After the first notice period, staff request authority from the Commission to submit the proposed program rules and amendments, as revised, to the Joint Committee on Administrative Rules (JCAR). This commences a second 45-day review period known as the “second notice period.” During this period, legislative review of the rules is by staff and legislative members of JCAR. Objections or recommended revisions may be issued by JCAR as a result of their review. After responding to objections or incorporating JCAR’s revisions, ISAC’s staff again submits the rules for Commission approval and adoption.

To streamline this process, ISAC's staff recommend that, unless objections from JCAR are issued after the second notice period, the Commission approve proposed program rules or amendments once rather than twice. The amendments to ISAC's internal rules would permit ISAC staff to submit proposed program rules or amendments to the SOS for publication in the Illinois Register, commencing the first notice period. Note that ISAC's staff would still inform the Commission of their plans to submit program rules or amendments to the SOS before publication. After the first notice period ends, the proposed rules or amendments would be submitted to the Commission, along with any public comments received and the Executive Director's recommendation. If approved by the Commission, ISAC's staff would submit the proposed rule changes to JCAR for review. As long as JCAR does not object to the proposed rule or amendment, the Commission delegates authority to the Executive Director to proceed with final adoption of the rule. Should ISAC receive an objection to the proposed rule or amendment, the objection will be brought before the Commission for consideration.

The full text of the Internal Rules amendments is included in this item. The text is marked with underlines/overstrikes to show all additions/deletions. Only the underlines/overstrikes version of 5376 Information Requests is being provided in the agenda book.

Action requested:

“BE IT RESOLVED that the Commission approves the proposed amendments to the Illinois Student Assistance Commission's internal rules titled 'Public Information, Rulemaking and Organization' and 'Information Requests' for submission to the Secretary of State.

ILLINOIS STUDENT ASSISTANCE COMMISSION

PROPOSED RULES AND AMENDMENTS

Background

The Administrative Procedures Act ((5 ILCS 100/) requires ISAC to implement internal rules that are specific to the internal operation of the Commission. From time to time, ISAC reviews these rules required by the Illinois Administrative Procedure Act for consistency with statutory requirements, generally-accepted legal doctrines, and current agency practices. If an amendment to these required rules is needed, proposed amendments are drafted by ISAC staff and presented to the Commission for consideration.

Rulemaking Process Overview

Unlike Program Rules, which are required to be published in the Illinois Register and approved by the Joint Committee on Administrative Rules, ISAC's internal rules may be adopted, amended, or repealed without providing notice to or soliciting comments from the public. Rather, these Internal Rules may be adopted, amended, or repealed by a vote of the Commission. Upon Commission approval, changes to ISAC's internal rules become effective upon filing a certified copy of the rule or rule change with the Secretary of State and, concurrently, filing a notice of adopted rules for publication in the Illinois Register.

Proposed Rules and Amendments

After reviewing certain internal rules, ISAC's legal staff recommends that the following rules be revised to reflect updated information or for consistency with the law. All of ISAC's internal rules can be found in Title 2 of the Illinois Administrative Code; the recommended changes are as follows:

- | | |
|----------------------|--|
| Part 5375, Subpart A | Public Information, Rulemaking, and Organization
This rule currently refers to an outdated website address for ISAC. The proposed amendment will delete any reference to ISAC's Website, as that information is more easily located and readily available on the world wide web rather than in ISAC's internal rules. |
| Part 5375, Subpart B | Public Information, Rulemaking, and Organization
The proposed amendment will clarify that the Commission shall vote on whether a proposed rule or amendment is accepted, modified, or rejected after the first notice period and directs the Executive Director to proceed with adoption of the rule or amendment unless an objection is received by JCAR during the second notice period. Should ISAC receive an objection, the rule or amendment will be resubmitted to the Commission for consideration. |

Part 5375, Subpart C

Public Information, Rulemaking, and Organization

The proposed amendment will revise this section to clarify that six (6) members of the Commission are required to be present in order to constitute a quorum. It deletes a superfluous requirement that the Commissioners receive ten days written notice of meetings. It also updates the organizational chart and clarifies that the General Counsel, Chief Investment Officer, and Internal Auditor all have dotted line reporting authority to the Commission.

Part 5376

Information Requests

The proposed amendment will update the electronic mail address to which members of the public can submit requests for information from FOIA@isac.org to ISAC.FOIA@isac.illinois.gov.

2 ILLINOIS ADMINISTRATIVE CODE CH. XIV, SEC. 5375
PUBLIC INFORMATION, RULEMAKING AND ORGANIZATION

TITLE 2: GOVERNMENTAL ORGANIZATION
SUBTITLE F: EDUCATIONAL AGENCIES
CHAPTER XIV: ILLINOIS STUDENT ASSISTANCE COMMISSION

PART 5375
PUBLIC INFORMATION, RULEMAKING AND ORGANIZATION

SUBPART A: PUBLIC INFORMATION

Section
5375.10 Information

SUBPART B: RULEMAKING

Section
5375.100 Rulemaking Procedures

SUBPART C: ORGANIZATION

Section
5375.210 The Commission
5375.220 Agency Organization
5375.230 Procedures for Persons Desiring to Address the Commission at a Commission Meeting

APPENDIX A Organizational Chart

AUTHORITY: Implementing Section 5-15(a) of the Illinois Administrative Procedure Act [5 ILCS 100/5-15(a)] and authorized by Section 20(f) of the Higher Education Student Assistance Act [110 ILCS 947/20(f)].

SOURCE: Adopted at 3 Ill. Reg. 4, p. 38, effective January 26, 1979; amended at 4 Ill. Reg. 16, p. 118, effective April 17, 1980; amended at 4 Ill. Reg. 34, p. 208, effective August 9, 1980; amended at 6 Ill. Reg. 8413, effective June 30, 1982; rules repealed and new rules adopted at 8 Ill. Reg. 2505, effective February 10, 1984; amended at 8 Ill. Reg. 17022, effective September 5, 1984; amended at 11 Ill. Reg. 17836, effective October 16, 1987; transferred from Chapter XII, 2 Ill. Adm. Code 5275 (State Scholarship Commission) to Chapter XIV, 2 Ill. Adm. Code 5375 (Illinois Student Assistance Commission) pursuant to P.A. 86-168, effective July 1, 1989, at 13 Ill. Reg. 17867; amended at 16 Ill. Reg. 7497, effective April 22, 1992; amended at 19 Ill. Reg. 11384, effective August 1, 1995; amended at 20 Ill. Reg. 15073, effective November 15, 1996; amended at 24 Ill. Reg. 9189, effective July 1, 2000; amended at 34 Ill. Reg. 8530, effective July 1, 2010; amended at __ Ill.Reg. ____, effective ____, ____.

SUBPART A: PUBLIC INFORMATION

Section 5375.10 Information

- a) The public can obtain information about the Illinois Student Assistance Commission (ISAC) and its programs by contacting one of ISAC's offices located in Deerfield, Chicago or Springfield. General information is also available on ISAC's Website.
- b) Requests for inspection or copying of ISAC's public records may be submitted as a Freedom of Information Act (FOIA).

(Source: Amended at 34 Ill. Reg. 8530, effective July 1, 2010)

SUBPART B: RULEMAKING

Section 5375.100 Rulemaking Procedures

- a) ISAC shall follow the rulemaking procedures established by the Illinois Administrative Procedure Act [5 ILCS 100].
- b) Rules, repeals or amendments to rules are developed by ISAC and submitted for public comment through publication in the Illinois Register, hereinafter "the first notice period." Any such rule, repeal or amendment, along with any public comments, are thereafter presented to the Commission for consideration.
- c) The Commission may accept, modify or reject a proposed rule prior to adoption, amendment or repeal of the rule.
- d) The Commission shall thereafter direct the Executive Director or their designee to submit a proposed rule or modification for review by the Joint Committee on Administrative Rules (JCAR), hereinafter "the second notice period," or withdraw the proposed rule in accordance with the Illinois Administrative Procedure Act [5 ILCS 100].
- e) At the end of the second notice period, if no objections are received from JCAR, ISAC shall thereafter adopt the rule or any modification by causing the Executive Director to file a certified copy of the rule with the Secretary of State. If ISAC receives an objection from JCAR during the second notice period, the Executive Director will present the objection to the Commission at its next meeting for consideration.
- f) The Executive Director may promulgate Emergency and Peremptory Rules in

accordance with the Illinois Administrative Procedure Act [5 ILCS 100].

- g) Rules and amendments relating to exempt matters, as defined in the Illinois Administrative Procedure Act [5 ILCS 100/5-35(c)], may be adopted, amended or repealed by action of the Commission and shall be effective immediately upon adoption. A certified copy of rules and amendments relating to exempt matters will be filed with the Secretary of State.

(Source: Amended at __ Ill. Reg. ____, effective ____ , ____)

SUBPART C: ORGANIZATION

Section 5375.210 The Commission

- a) The Commission was created by the Higher Education Student Assistance Act [110 ILCS 947/15]. Commission members are called "Commissioners". Commissioners are appointed by the Governor with the advice and consent of the Senate (see 110 ILCS 947/15(a)). Senate confirmation of a person appointed by the Governor to be a Commission member is a necessary prerequisite to becoming a member. However, while a gubernatorial appointment is pending Senate approval, the Commissioner designee will be invited to attend and observe Commission meetings at ISAC's expense, but shall not vote.
- b) The Governor designates one member of the Commission, other than the student member, to serve as Chairman (see 110 ILCS 947/15(a)).
- c) A Vice-Chairman shall be elected by a vote of the Commission. A new election for Vice-Chairman shall occur whenever the term of the incumbent Vice-Chairman expires or whenever the Governor designates a new Chairman.
- d) The Chairman of the Commission presides at Commission meetings. The Vice-Chairman shall preside at all meetings in the absence of the Chairman. In the absence of the Chairman and the Vice-Chairman, a member designated by the Chairman shall preside at the Commission meetings. In the absence of such a designation by the Chairman, the most senior member based on length of service since original appointment shall preside at a Commission meeting if the Chairman and Vice-Chairman are not in attendance.
- e) The Commission shall convene at least one time per year. All Commission meetings shall be conducted in accordance with the Open Meetings Act [5 ILCS 120].
- f) Six members of the Commission shall constitute a quorum. All official acts of the Commission require a majority vote in a meeting at which quorum is present.
- g) The Commission shall adopt a schedule of regular meetings at the beginning of each calendar year, including the date, time and place of each scheduled meeting (see 5 ILCS 120/2.02).
- h) Matters on which the Commission shall deliberate and vote include, but are not limited to, the following:

- 1) Formula for determining grant eligibility for the Monetary Award Program (see 23 Ill. Adm. Code 2735);
 - 2) Budget requests that are submitted to the General Assembly for appropriation;
 - 3) The budget for the operations of the Illinois Designated Account Purchase Program and College Illinois![®] 529 Prepaid Tuition Program;
 - 4) Investment policies, contract pricing and fees, and appointment of investment advisory panel members, investment managers and marketing agent for the College Illinois![®] 529 Prepaid Tuition Program;
 - 5) Issuance of bonds or other securities pursuant to Section 145 of the Education Loan Purchase Program Law [110 ILCS 947/145];
 - 6) The amount of the federal default fee, to be charged to the borrowers (or absorbed by the Commission) on guaranteed student loans (see 23 Ill. Adm. Code 2720.80);
 - 7) Promulgation of rules, in accordance with Section 5375.100;
 - 8) Appointment of, and the salary and terms of employment of, the Executive Director of the Commission; and
 - 9) Delegation of authority to the Executive Director and other ISAC staff to execute and deliver contracts, agreements and similar instruments.
- i) The Chairman (or other presiding officer) has full authority to determine all procedural issues incident to a Commission meeting. In the absence of a resolution adopted by the Commission to the contrary, meetings will be conducted in accordance with the most recently published edition of Robert's Rules of Order, Newly Revised.
 - j) Members of the Commission shall serve without compensation, but shall be reimbursed for expenses incurred in performing their duties, in accordance with the rules and guidelines established for the reimbursement of expenses incurred by members of boards and commissions of the government of the State of Illinois. For out-of-state travel by a Commissioner, expense reimbursement shall be withheld unless approved in advance by the Chairman.

(Source: Amended at 34 Ill. Reg. 8530, effective July 1, 2010)

Section 5375.220 Agency Organization

- a) The Commission has delegated to ISAC staff the responsibility for the administration of all ISAC programs. Final actions and decisions of the Executive Director pertaining to applicants, institutions and lenders may be appealed to an independent hearing officer, otherwise known as an administrative law judge, as defined in Article 10 of the Illinois Administrative Procedure Act. (See 23 Ill. Adm. Code 2700.70 for administrative appeal procedures relating to the matters set forth in this subsection (a).)
- b) The locations and telephone numbers for ISAC offices are as follows:
 - 1) 1755 Lake Cook Road, Deerfield, Illinois 60015-5209, (847)948-8500;
 - 2) 100 W. Randolph St., Suite 3-200, Chicago, Illinois 60601-3219, (312)814-6334; and
 - 3) 500 West Monroe, 3rd floor, Springfield, Illinois 62704-1876, (217)782-6767.
- c) ISAC's organizational structure is illustrated on the chart labeled Appendix A.

(Source: Amended at __Ill. Reg. ____, effective ____ , ____)

Section 5375.230 Procedures for Persons Desiring to Address the Commission at a Commission Meeting

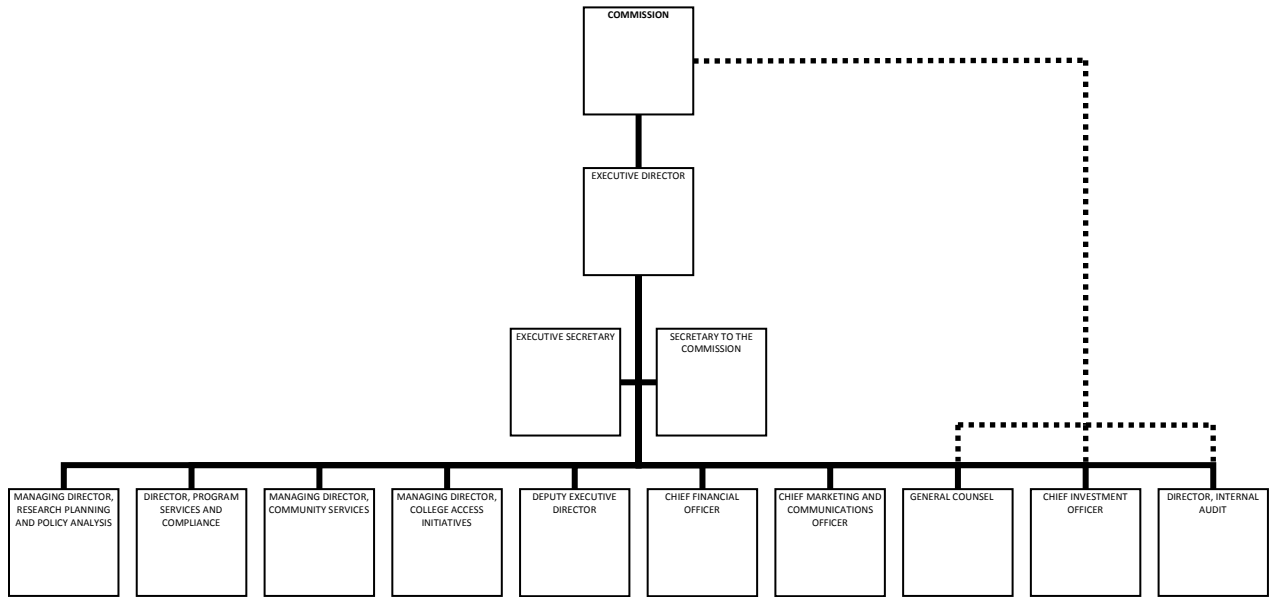
- a) Individuals may request that notice of Commission meetings be sent to them.
- b) Unless otherwise permitted by the Chairman, persons desiring to address the Commission shall make a written request to the Executive Director at least 5 business days prior to the meeting, provided that, with respect to any emergency meeting, persons desiring to address the Commission shall make a written request to the Executive Director at least 1 business day prior to the date of the emergency meeting. Any request to address the Commission must include the name, telephone number or e-mail contact information, and street address of the person requesting to address the Commission. The request shall also include the name and street address of the organization or group to be represented by the person, if any, and a summary of the presentation.
- c) The Chairman (or other presiding officer) may impose appropriate time limits on

presentations or public comments. The presiding officer's decision to limit a presentation or comment shall be based on criteria including, but not limited to, the total time available for the Commission's deliberations, the number of persons seeking to appear before the Commission, and the potential for redundancy in the comment being presented.

- d) The Chairman (or other presiding officer), with the consent of the members, can rule to recognize or not recognize any proposed presenter who asks to address the Commission but who had not requested to do so in writing in accordance with Section 5375.230(b). Preference will be given to presenters who made written requests in accordance with subsection (b).
- e) All presenters shall be encouraged, but not required, to submit their presentations in writing.

(Source: Amended at 34 Ill. Reg. 8530, effective July 1, 2010)

2 ILLINOIS ADMINISTRATIVE CODE CH. XIV, SEC. 5375.APP. A
PUBLIC INFORMATION, RULEMAKING AND ORGANIZATION



(Source: Amended at __ Ill. Reg. ____, effective ____, ____)

2 ILLINOIS ADMINISTRATIVE CODE CH. XIV, SEC. 5375
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TITLE 2: GOVERNMENTAL ORGANIZATION
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PART 5375
PUBLIC INFORMATION, RULEMAKING AND ORGANIZATION

SUBPART A: PUBLIC INFORMATION

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5375.10 Information

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SUBPART A: PUBLIC INFORMATION

Section 5375.10 Information

- a) The public can obtain information about the Illinois Student Assistance Commission (ISAC) and its programs by contacting one of ISAC's offices located in Deerfield, Chicago or Springfield. General information is also available on ISAC's Website, ~~www.collegezone.com~~.
- b) Requests for inspection or copying of ISAC's public records may be submitted as a Freedom of Information Act (FOIA).

(Source: Amended at 34 Ill. Reg. 8530, effective July 1, 2010)

SUBPART B: RULEMAKING

Section 5375.100 Rulemaking Procedures

- a) ~~The Commission's adoption of rules must proceed in accordance with the Illinois Administrative Procedure Act [5 ILCS 100], specifically, the rulemaking procedures of Article 5 of that Act. Those rulemaking procedures do not apply to certain exempt matters, i.e., any matter relating solely to agency management or personnel practices or to public property, loans or contracts [5 ILCS 100/5-35(e)]. ISAC shall follow the rulemaking procedures established by the Illinois Administrative Procedure Act [5 ILCS 100].~~
- b) ~~With respect to non-exempt matters, the Commission's rulemaking procedures follow the requirements of the Illinois Administrative Procedure Act. ISAC's staff develops proposed rules and amendments to existing rules and submits them. Rules, repeals or amendments to rules are developed by ISAC and submitted for public comment through publication in the Illinois Register, hereinafter "the first notice period." Any such rule, repeals or amendments, along with any. All written public comments, submitted on proposed ISAC rules and amendments are thereafter presented to the Commission for consideration. The Executive Director may recommend changes in the proposed rules and amendments based upon comments received.~~
- c) ~~The Commission will conduct a public hearing as required by Section 5-40(b) of the Illinois Administrative Procedure Act and may hold such a hearing on its own volition for the purpose of receiving public comments on the proposed rules and amendments, and may appoint a member of the staff to serve as a hearing officer to conduct the hearing, may accept, modify or reject a proposed rule prior to adoption, amendment or repeal of the rule.~~

- d) ~~After receiving the Executive Director's recommendation and the written comments from the public, the Commission shall vote whether to accept, modify or reject the proposed rules and amendments. After disposition by the Commission, The Commission shall thereafter direct the Executive Director or their designee to shall submit the a proposed rule or modifications and amendments for review by the Joint Committee on Administrative Rules (JCAR), hereinafter "the second notice period," or withdraw the proposed rule in accordance with the Illinois Administrative Procedure Act [5 ILCS 100].~~
- e) ~~After the expiration of the JCAR review period, the proposed rules and amendments are re submitted to the Commission for approval and adoption. Rules and amendments adopted by the Commission are filed with the Office of the Secretary of State and published in the Illinois Register. At the end of the second notice period, if no objections are received from JCAR, ISAC shall thereafter adopt the rule or any modification by causing the Executive Director to file a certified copy of the rule with the Secretary of State. If ISAC receives an objection from JCAR during the second notice period, the Executive Director will present the objection to the Commission at its next meeting for consideration.~~
- f) The Executive Director may promulgate Emergency and Peremptory Rules ~~and amendments~~ in accordance with the Illinois Administrative Procedure Act [5 ILCS 100].
- g) Rules and amendments relating to ~~the~~ exempt matters, ~~described in subsection (a), including, without limitation, ISAC management, personnel practices, public property, loans or contracts as defined in the Illinois Administrative Procedure Act [5 ILCS 100/5-35(c)]~~, may be adopted, amended or repealed by action of the Commission and shall be effective immediately upon adoption. A certified copy of rules and amendments relating to exempt matters will be filed with the Secretary of State.

(Source: Amended at 34 Ill. Reg. 8530, effective July 1, 2010)

SUBPART C: ORGANIZATION

Section 5375.210 The Commission

- a) The Commission was created by the Higher Education Student Assistance Act [110 ILCS 947/15]. Commission members are called "Commissioners". Commissioners are appointed by the Governor with the advice and consent of the Senate (see 110 ILCS 947/15(a)). Senate confirmation of a person appointed by the Governor to be a Commission member is a necessary prerequisite to becoming a member. However, while a gubernatorial appointment is pending Senate

approval, the Commissioner designee will be invited to attend and observe Commission meetings at ISAC's expense, but shall not vote.

- b) The Governor designates one member of the Commission, other than the student member, to serve as Chairman (see 110 ILCS 947/15(a)).
- c) A Vice-Chairman shall be elected by a vote of the Commission. A new election for Vice-Chairman shall occur whenever the term of the incumbent Vice-Chairman expires or whenever the Governor designates a new Chairman.
- d) The Chairman of the Commission presides at Commission meetings. The Vice-Chairman shall preside at all meetings in the absence of the Chairman. In the absence of the Chairman and the Vice-Chairman, a member designated by the Chairman shall preside at the Commission meetings. In the absence of such a designation by the Chairman, the most senior member based on length of service since original appointment shall preside at a Commission meeting if the Chairman and Vice-Chairman are not in attendance.
- e) The Commission shall convene at least one time per year. All Commission meetings shall be conducted in accordance with the Open Meetings Act [5 ILCS 120].
- f) ~~When the Commission consists of 10 appointed and confirmed members, a quorum shall be 6. When the Commission consists of 9 or 8 appointed and confirmed members, a quorum shall be 5. When the Commission consists of 7 or fewer appointed and confirmed members, the quorum shall be 4. — Six members of the Commission shall constitute a quorum. All official acts of the Commission require a majority vote in a meeting at which quorum is present.~~
- g) ~~Except as otherwise provided in Section 2.02(a) of the Open Meetings Act (e.g., an emergency meeting), each Commissioner shall be given at least 10 days' written notice of any meeting of the Commission. Commission meetings shall be convened pursuant to notice given in accordance with the Open Meetings Act.~~ The Commission shall adopt a schedule of regular meetings at the beginning of each calendar year, including the date, time and place of each scheduled meeting (see 5 ILCS 120/2.02).
- h) Matters on which the Commission shall deliberate and vote include, but are not limited to, the following:
 - 1) Formula for determining grant eligibility for the Monetary Award Program (see 23 Ill. Adm. Code 2735);

2 ILLINOIS ADMINISTRATIVE CODE CH. XIV, SEC. 5375.210
PUBLIC INFORMATION, RULEMAKING AND ORGANIZATION

- 2) Budget requests that are submitted to the General Assembly for appropriation;
 - 3) The budget for the operations of the Illinois Designated Account Purchase Program and College Illinois![®] 529 Prepaid Tuition Program;
 - 4) Investment policies, contract pricing and fees, and appointment of investment advisory panel members, investment managers and marketing agent for the College Illinois![®] 529 Prepaid Tuition Program;
 - 5) Issuance of bonds or other securities pursuant to Section 145 of the Education Loan Purchase Program Law [110 ILCS 947/145];
 - 6) The amount of the federal default fee, to be charged to the borrowers (or absorbed by the Commission) on guaranteed student loans (see 23 Ill. Adm. Code 2720.80);
 - 7) Promulgation of rules, in accordance with Section 5375.100;
 - 8) Appointment of, and the salary and terms of employment of, the Executive Director of the Commission; and
 - 9) Delegation of authority to the Executive Director and other ISAC staff ~~of authority~~ to execute and deliver contracts, agreements and similar instruments.
- i) The Chairman (or other presiding officer) has full authority to determine all procedural issues incident to a Commission meeting. In the absence of a resolution adopted by the Commission to the contrary, meetings will be conducted in accordance with the most recently published edition of Robert's Rules of Order, Newly Revised.
 - j) Members of the Commission shall serve without compensation, but shall be reimbursed for expenses incurred in performing their duties, in accordance with the rules and guidelines established for the reimbursement of expenses incurred by members of boards and commissions of the government of the State of Illinois. For out-of-state travel by a Commissioner, expense reimbursement shall be withheld unless approved in advance by the Chairman.

(Source: Amended at 34 Ill. Reg. 8530, effective July 1, 2010)

Section 5375.220 Agency Organization

2 ILLINOIS ADMINISTRATIVE CODE CH. XIV, SEC. 5375.220
PUBLIC INFORMATION, RULEMAKING AND ORGANIZATION

- a) The Commission has delegated to ISAC staff the responsibility for the administration of all ISAC programs. Final actions and decisions of the Executive Director pertaining to applicants, institutions and lenders may be appealed to an independent hearing officer, otherwise known as an administrative law judge, as defined in Article 10 of the Illinois Administrative Procedure Act. (See 23 Ill. Adm. Code 2700.70 for administrative appeal procedures relating to the matters set forth in this subsection (a).)
- b) The locations and telephone numbers for ISAC offices are as follows:
 - 1) 1755 Lake Cook Road, Deerfield, Illinois 60015-5209, (847)948-8500;
 - 2) 100 W. Randolph St., Suite 3-200, Chicago, Illinois 60601-3219, (312)814-6334; and
 - 3) 500 West Monroe, 3rd floor, Springfield, Illinois 62704-1876, (217)782-6767.
- c) ISAC's organizational structure is illustrated on the chart labeled Appendix A.

(Source: Amended at 34 Ill. Reg. 8530, effective July 1, 2010)

Section 5375.230 Procedures for Persons Desiring to Address the Commission at a Commission Meeting

- a) Individuals may request that notice of Commission meetings be sent to them.
- b) Unless otherwise permitted by the Chairman, persons desiring to address the Commission shall make a written request to the Executive Director at least 5 business days prior to the meeting, provided that, with respect to any emergency meeting, persons desiring to address the Commission shall make a written request to the Executive Director at least 1 business day prior to the date of the emergency meeting. Any request to address the Commission must include the name, telephone number or e-mail contact information, and street address of the person requesting to address the Commission. The request shall also include the name and street address of the organization or group to be represented by the person, if any, and a summary of the presentation.
- c) The Chairman (or other presiding officer) may impose appropriate time limits on presentations or public comments. The presiding officer's decision to limit a presentation or comment shall be based on criteria including, but not limited to, the total time available for the Commission's deliberations, the number of persons seeking to appear before the Commission, and the potential for redundancy in the

2 ILLINOIS ADMINISTRATIVE CODE CH. XIV, SEC. 5375.230
PUBLIC INFORMATION, RULEMAKING AND ORGANIZATION

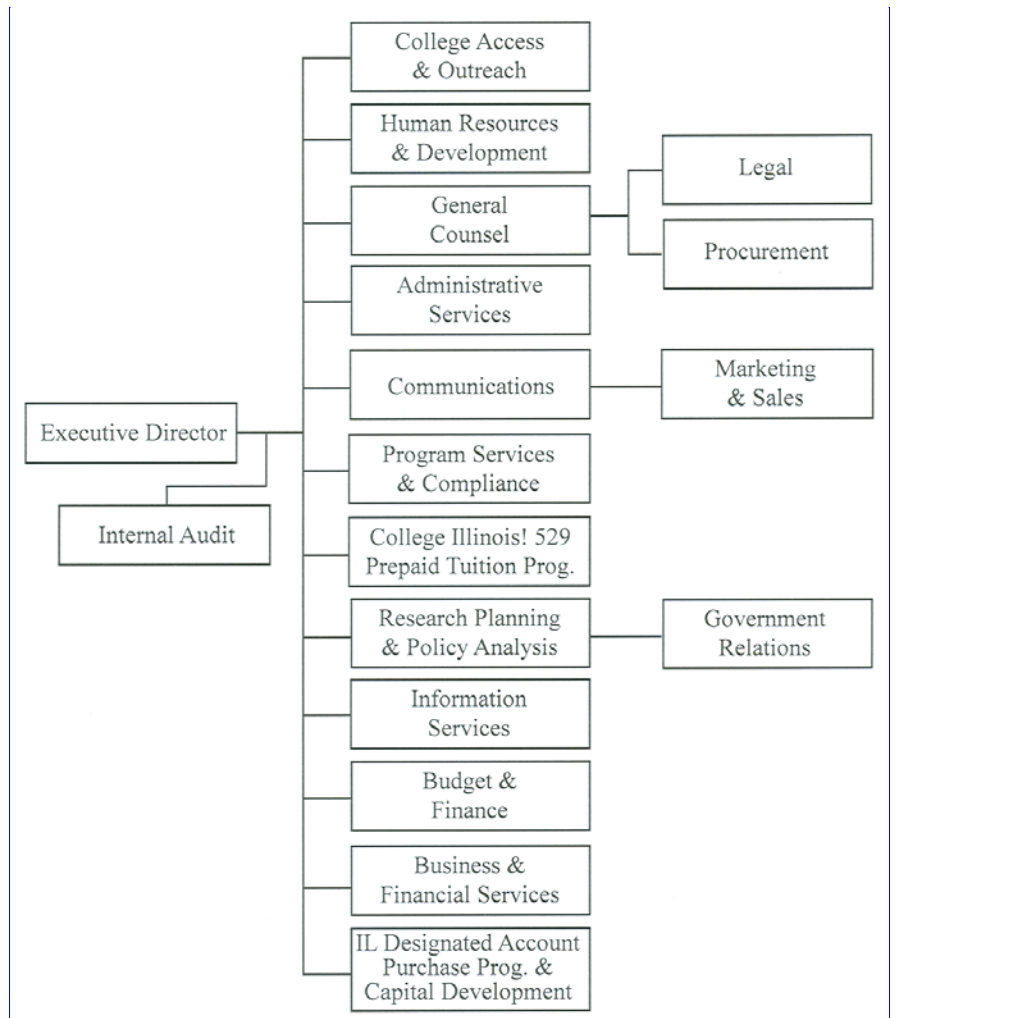
comment being presented.

- d) The Chairman (or other presiding officer), with the consent of the members, can rule to recognize or not recognize any proposed presenter who asks to address the Commission but who had not requested to do so in writing in accordance with Section 5375.230(b). Preference will be given to presenters who made written requests in accordance with subsection (b).
- e) All presenters shall be encouraged, but not required, to submit their presentations in writing.

(Source: Amended at 34 Ill. Reg. 8530, effective July 1, 2010)

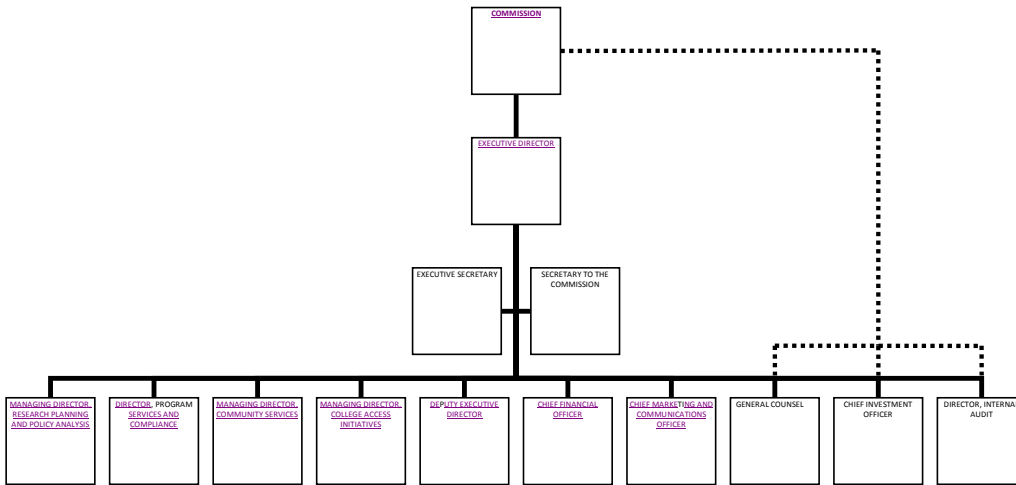
Section 5375.APPENDIX A Organizational Chart

ILLINOIS STUDENT ASSISTANCE COMMISSION
ORGANIZATIONAL CHART



Comment [a1]: DELETE

2 ILLINOIS ADMINISTRATIVE CODE CH. XIV, SEC. 5375.APP. A
PUBLIC INFORMATION, RULEMAKING AND ORGANIZATION



(Source: Amended at 34 Ill. Reg. 8530, effective July 1, 2010)

TITLE 2: GOVERNMENTAL ORGANIZATION
SUBTITLE F: EDUCATIONAL AGENCIES
CHAPTER XIV: ILLINOIS STUDENT ASSISTANCE COMMISSION

PART 5376
INFORMATION REQUESTS

SUBPART A: INTRODUCTION

Section	
5376.101	Summary and Purpose
5376.102	Definitions

SUBPART B: CLASSIFICATION OF RECORDS

Section	
5376.201	Records that Will Be Disclosed
5376.202	Records that Will Be Withheld from Disclosure
5376.203	Statutory Exemptions

SUBPART C: PROCEDURES FOR REQUESTING RECORDS FROM THE AGENCY

Section	
5376.301	Submittal of Requests for Records
5376.302	Information To Be Provided in Requests for Records
5376.303	Requests for Records for Commercial Purposes

SUBPART D: AGENCY RESPONSE TO REQUESTS FOR RECORDS

Section	
5376.401	Timeline for Agency Response
5376.402	Requests for Records that the Agency Considers Unduly Burdensome
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SUBPART E: PROCEDURES FOR PROVIDING RECORDS TO REQUESTERS

Section

- 5376.501 Inspection of Records
- 5376.502 Copying of Records; Fees
- 5376.503 Reduction and Waiver of Fees

5376.APPENDIX A Fee Schedule for Duplication and Certification of Records

AUTHORITY: Implementing and authorized by Section 3(h) of the Freedom of Information Act [5 ILCS 140], implementing Section 5-15 of the Administrative Procedure Act [5 ILCS 100/5-15], and authorized by Section 20(f) of the Higher Education Student Assistance Act [110 ILCS 947/20(f)].

SOURCE: Old Part repealed at 34 Ill. Reg. 15461, and new Part adopted at 34 Ill. Reg. 15463, effective October 1, 2010.

A: INTRODUCTION

Section 5376.101 Summary and Purpose

- a) This Part states the policy of the Illinois Student Assistance Commission for making its records available for reasonable public inspection while, at the same time, protecting legitimate interests in confidentiality.
- b) This Part:
 - 1) Establishes the following classifications for records in the Agency's possession:
 - A) Records that shall be disclosed; and
 - B) Records that shall be withheld from disclosure.
 - 2) Contains the procedures by which requesters may obtain records in the Agency's possession; and
 - 3) Contains the procedures for claiming and determining that records submitted to the Agency are exempt from disclosure.

Section 5376.102 Definitions

Terms not defined in this Section shall have the same meaning as in the Freedom of Information Act [5 ILCS 140]. The following definitions are applicable for purposes of this Part:

"Act" means the Higher Education Student Assistance [110 ILCS 947].

"Agency" means Illinois Student Assistance Commission as established by the Act.

"Commercial purpose" means the use of any part of a record or records, or information derived from records, in any form for sale, resale, or solicitation or advertisement for sales or services. For purposes of this definition, requests made by news media and non-profit, scientific, or academic organizations shall not be considered to be made for a "commercial purpose" when the principal purpose of the request is:

to access and disseminate information concerning news and current or passing events;

for articles or opinion or features of interest to the public; or

for the purpose of academic, scientific, or public research or education.
(Section 2(c-10) of FOIA)

"Copying" means the reproduction of any record by means of any photographic, electronic, mechanical, or other process, device or means now known or hereafter developed and available to the Agency. (Section 2(d) of FOIA)

"Director" means the Executive Director of the Agency.

"FOIA" means the Freedom of Information Act [5 ILCS 140].

"Freedom of Information Officer" or "FOI Officer" means an individual or individuals responsible for receiving and responding to requests for public records.

"News media" means a newspaper or other periodical issued at regular intervals, news service in paper or electronic form, radio station, television station, television network, community antenna television service, or person or corporation engaged in making news reels or other motion picture news for public showing. (Section 2(f) of FOIA)

"Person" means any individual, corporation, partnership, firm, organization or association, acting individually or as a group. (Section 2(b) of FOIA)

"Private information" means unique identifiers, including a person's Social Security number, driver's license number, employee identification number, biometric identifiers, personal financial information, passwords or other access codes, medical records, home or personal telephone numbers, and personal email addresses. Private information also includes home address and personal license plates, except as otherwise provided by law or when compiled without possibility of attribution to any person. (Section 2(c-5) of FOIA)

"Public Access Counselor" means an individual appointed to that office by the Attorney General under Section 7 of the Attorney General Act [15 ILCS 205].

"Public body" means all legislative, executive, administrative, or advisory bodies of the State, State universities and colleges, counties, townships, cities, villages, incorporated towns, school districts and all other municipal corporations, boards, bureaus, committees or commissions of this State, any subsidiary bodies of any of the foregoing, including but not limited to committees and subcommittees thereof, and a School Finance Authority created under Article 1E of the School Code [105 ILCS 5]. (Section 2(a) of FOIA)

"Records" means all records, reports, forms, writings, letters, memoranda, books, papers, maps, photographs, microfilms, cards, tapes, recordings, electronic data processing records, electronic communications, recorded information and all other documentary materials pertaining to the transaction of public business, regardless of physical form or characteristics, having been prepared by or for, or having been or being used by, received by, in the possession of or under the control of the Agency. (Section 2(c) of FOIA)

"Requester" is any person who has submitted to the Agency a written request, electronically or on paper, for records.

"Unwarranted invasion of personal privacy" means the disclosure of information that is highly personal or objectionable to a reasonable person and in which the subject's right to privacy outweighs any legitimate public interest in obtaining the information. (Section 7(1)(c) of FOIA)

SUBPART B: CLASSIFICATION OF RECORDS

Section 5376.201 Records that Will Be Disclosed

Upon [receiving a](#) request meeting the requirements of this Part, the Agency shall disclose to the requester all records requested except that it shall not disclose certain records as provided in Section 5376.202 or Section 5376.203. Records covered under this Section shall include, but are not be limited to:

- a) *Records of funds. All records relating to the obligation, receipt, and use of public funds of the Agency are records subject to inspection and copying by the public. (Section 2.5 of FOIA)*

- b) *Payrolls. Certified payroll records submitted to the Agency under Section 5(a)(2) of the Prevailing Wage Act [820 ILCS 130] are records subject to inspection and copying in accordance with the provisions of FOIA; except that contractors' and employees' addresses, telephone numbers, and Social Security numbers will be redacted by the Agency prior to disclosure. (Section 2.10 of FOIA)*

- c) *Criminal history records. The following documents maintained by the Agency pertaining to criminal history record information are records subject to inspection and copying by the public pursuant to FOIA:*
 - 1) *Court records that are public;*
 - 2) *Records that are otherwise available under State or local law; and*
 - 3) *Records in which the requesting party is the individual identified, except as provided under Section 5376.202(a)(5)(F) of this Part. (Section 2.15(b) of FOIA)*

- d) *Settlement agreements. All settlement agreements entered into by or on behalf of the Agency are records subject to inspection and copying by the public, provided that information exempt from disclosure under Section 5376.202 or 5376.203 of this Part may be redacted. (Section 2.20 of FOIA)*

Section 5376.202 Records that Will Be Withheld from Disclosure

When a request is made to inspect or copy a record that contains information that is otherwise exempt from disclosure under this Section, but also contains information that is not exempt from disclosure, the Agency shall make the remaining information available for inspection and copying. (Section 7(1) of FOIA)

- a) *Subject to this requirement and Section 7 of FOIA, the following shall be exempt from inspection and copying:*
 - 1) *Information specifically prohibited from disclosure by federal or State law or rules and regulations implementing federal or State law; (Section 7(1)(a) of FOIA)*

- 2) *Private information, unless disclosure is required by another provision of FOIA, a State or federal law or a court order; (Section 7(1)(b) of FOIA)*
- 3) *Files, documents, and other data or databases maintained by one or more law enforcement agencies and specifically designed to provide information to one or more law enforcement agencies regarding the physical or mental status of one or more individual subjects; (Section 7(1)(b-5) of FOIA)*
- 4) *Personal information contained within records, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy, unless the disclosure is consented to in writing by the individual subjects of the information. "Unwarranted invasion of personal privacy" means the disclosure of information that is highly personal or objectionable to a reasonable person and in which the subject's right to privacy outweighs any legitimate public interest in obtaining the information. The disclosure of information that bears on the public duties of public employees and officials shall not be considered an invasion of personal privacy; (Section 7(1)(c) of FOIA)*
- 5) *Records in the possession of any public body created in the course of administrative enforcement proceedings, and any law enforcement or correctional agency for law enforcement purposes, but only to the extent that disclosure would:*
 - A) *Interfere with pending or actually and reasonably contemplated law enforcement proceedings conducted by any law enforcement or correctional agency that is the recipient of the request;*
 - B) *Interfere with active administrative enforcement proceedings conducted by the public body that is the recipient of the request;*
 - C) *Create a substantial likelihood that a person will be deprived of a fair trial or an impartial hearing;*
 - D) *Unavoidably disclose the identity of a confidential source, confidential information furnished only by the confidential source, or persons who file complaints with or provide information to administrative, investigative, law enforcement, or penal agencies; except that the Agency will provide traffic accident reports, the identities of witnesses to traffic accidents, and rescue reports, except when disclosure would interfere with an active criminal investigation;*

- E) *Disclose unique or specialized investigative techniques other than those generally used and known, or disclose internal documents of correctional agencies related to detection, observation or investigation of incidents of crime or misconduct, and disclosure would result in demonstrable harm to the Agency;*
 - F) *Endanger the life or physical safety of law enforcement personnel or any other person; or*
 - G) *Obstruct an ongoing criminal investigation by the Agency; (Section 7(1)(d) of FOIA)*
- 6) *Records that relate to or affect the security of correctional institutions and detention facilities; (Section 7(1)(e) of FOIA)*
- 7) *Preliminary drafts, notes, recommendations, memoranda and other records in which opinions are expressed, or policies or actions are formulated, except that a specific record or relevant portion of a record shall not be exempt when the record is publicly cited and identified by the head of the Agency. The exemption provided in this subsection (a)(7) extends to all those records of officers and agencies of the General Assembly that pertain to the preparation of legislative documents; (Section 7(1)(f) of FOIA)*
- 8) *Trade secrets and commercial or financial information obtained from a person or business where the trade secrets or commercial or financial information are furnished under a claim that they are proprietary, privileged or confidential, and that disclosure of the trade secrets or commercial or financial information would cause competitive harm to the person or business, and only insofar as the claim directly applies to the records requested. All trade secrets and commercial or financial information obtained by a public body, including a public pension fund, from a private equity fund or a privately held company within the investment portfolio of a private equity fund as a result of either investing or evaluating a potential investment of public funds in a private equity fund. The exemption contained in this subsection (a)(8) does not apply to the aggregate financial performance information of a private equity fund, nor to the identity of the fund's managers or general partners. The exemption contained in this subsection (a)(8) does not apply to the identity of a privately held company within the investment portfolio of a private equity fund, unless the disclosure of the identity of a privately held company may cause competitive harm. Nothing in this subsection (a)(8)*

shall be construed to prevent a person or business from consenting to disclosure; (Section 7(1)(g) of FOIA)

- 9) *Proposals and bids for any contract, grant, or agreement, including information that if it were disclosed would frustrate procurement or give an advantage to any person proposing to enter into a contract or agreement with the body, until an award or final selection is made. Information prepared by or for the body in preparation of a bid solicitation shall be exempt until an award or final selection is made; (Section 7(1)(h) of FOIA)*
- 10) *Valuable formulae, computer geographic systems, designs, drawings and research data obtained or produced by the Agency when disclosure could reasonably be expected to produce private gain or public loss. The exemption for "computer geographic systems" provided in this subsection (a)(10) does not extend to requests made by news media as defined in Section 5376.102 when the requested information is not otherwise exempt and the only purpose of the request is to access and disseminate information regarding the health, safety, welfare or legal rights of the general public; (Section 7(1)(i) of FOIA)*
- 11) *The following information pertaining to educational matters:*
 - A) *Test questions, scoring keys, and other examination data used to administer an academic exam;*
 - B) *Information received by a primary or secondary school, college, or university under its procedure for the evaluation of faculty members by their academic peers;*
 - C) *Information concerning a school's or university's adjudication of student disciplinary cases, but only to the extent that disclosure would unavoidably reveal the identity of the student; and*
 - D) *Course materials or research materials used by faculty members; (Section 7(1)(j) of FOIA)*
- 12) *Architects' plans and engineers' technical submissions, and other construction related technical documents for projects not constructed or developed in whole or in part with public funds and for projects constructed or developed with public funds, including but not limited to power generating and distribution stations and other transmission and distribution facilities, water treatment facilities, airport facilities, sport*

stadiums, convention centers, and all government owned, operated, or occupied buildings, but only to the extent that disclosure would compromise security; (Section 7(1)(k) of FOIA)

- 13) *Minutes of meetings of public bodies closed to the public as provided in the Open Meetings Act [5 ILCS 120] until the public body makes the minutes available to the public under Section 2.06 of the Open Meetings Act; (Section 7(1)(l) of FOIA)*
- 14) *Communications between the Agency and an attorney or auditor representing the Agency that would not be subject to discovery in litigation, and materials prepared or compiled by or for the Agency in anticipation of a criminal, civil or administrative proceeding upon the request of an attorney advising the Agency, and materials prepared or compiled with respect to internal audits of the Agency; (Section 7(1)(m) of FOIA)*
- 15) *Records relating to the Agency's adjudication of employee grievances or disciplinary cases; however, this exemption shall not extend to the final outcome of cases in which discipline is imposed; (Section 7(1)(n) of FOIA)*
- 16) *Administrative or technical information associated with automated data processing operations, including but not limited to software, operating protocols, computer program abstracts, file layouts, source listings, object modules, load modules, user guides, documentation pertaining to all logical and physical design of computerized systems, employee manuals, and any other information that, if disclosed, would jeopardize the security of the system or its data or the security of materials exempt under this Section; (Section 7(1)(o) of FOIA)*
- 17) *Records relating to collective negotiating matters between the Agency and its employees or representatives, except that any final contract or agreement shall be subject to inspection and copying; (Section 7(1)(p) of FOIA)*
- 18) *Test questions, scoring keys, and other examination data used to determine the qualifications of an applicant for a license or employment; (Section 7(1)(q) of FOIA)*
- 19) *The records, documents and information relating to real estate purchase negotiations until those negotiations have been completed or otherwise terminated. With regard to a parcel involved in a pending or actually and reasonably contemplated eminent domain proceeding under the Eminent*

Domain Act [735 ILCS 30], records, documents and information relating to that parcel shall be exempt except as may be allowed under discovery rules adopted by the Illinois Supreme Court. The records, documents and information relating to a real estate sale shall be exempt only until a sale is consummated; (Section 7(1)(r) of FOIA)

- 20) *Any and all proprietary information and records related to the operation of an intergovernmental risk management association or self-insurance pool or jointly self-administered health and accident cooperative or pool. Insurance or self-insurance (including any intergovernmental risk management association or self-insurance pool) claims, loss or risk management information, records, data, advice or communications; (Section 7(1)(s) of FOIA)*
- 21) *Information contained in or related to examination, operating, or condition reports prepared by, on behalf of, or for the use of a public body responsible for the regulation or supervision of financial institutions or insurance companies, unless disclosure is otherwise required by State law; (Section 7(1)(t) of FOIA)*
- 22) *Information that would disclose or might lead to the disclosure of secret or confidential information, codes, algorithms, programs or private keys intended to be used to create electronic or digital signatures under the Electronic Commerce Security Act [5 ILCS 175]; (Section 7(1)(u) of FOIA)*
- 23) *Vulnerability assessments, security measures, and response policies or plans that are designed to identify, prevent, or respond to potential attacks upon a community's population or systems, facilities, or installations, the destruction or contamination of which would constitute a clear and present danger to the health or safety of the community, but only to the extent that disclosure could reasonably be expected to jeopardize the effectiveness of the measures or the safety of the personnel who implement them or the public. Information exempt under this subsection (a)(23) may include such things as details pertaining to the mobilization or deployment of personnel or equipment, to the operation of communication systems or protocols, or to tactical operations; (Section 7(1)(v) of FOIA)*
- 24) *Information about students exempted from disclosure under Section 10-20.38 or 34-18.29 of the School Code, and information about undergraduate students enrolled at an institution of higher education exempted from disclosure under Section 25 of the Illinois Credit Card Marketing Act of 2009 [110 ILCS 26]. (Section 7(1)(z) of FOIA)*

- b) *A record that is not in the possession of the Agency but is in the possession of a party with whom the Agency has contracted to perform a governmental function on behalf of the Agency, and that directly relates to the governmental function and is not otherwise exempt under FOIA, shall be considered a record of the Agency for purposes of Subpart C. (Section 7(2) of FOIA)*

Section 5376.203 Statutory Exemptions

To the extent provided for by the following statutes, the following shall be exempt from inspection and copying:

- a) *All information determined to be confidential under Section 4002 of the Technology Advancement and Development Act [20 ILCS 700].*
- b) *Information the disclosure of which is restricted and exempted under Section 50 of the Illinois Prepaid Tuition Act [110 ILCS 979].*
- c) *Information the disclosure of which is exempted under the State Officials and Employees Ethics Act [5 ILCS 430] and records of any lawfully created State or local inspector general's office that would be exempt if created or obtained by an Executive Inspector General's office under that Act.*
- d) *Information prohibited from being disclosed by the Personnel Records Review Act [820 ILCS 40].*
- e) *Information prohibited from being disclosed by the Illinois School Student Records Act [105 ILCS 10].*

SUBPART C: PROCEDURES FOR REQUESTING RECORDS FROM THE AGENCY

Section 5376.301 Submittal of Requests for Records

- a) Any request for public records should be submitted in writing to the FOI Officer at the Agency office located in the Deerfield, Illinois office.
- b) Contact information for the FOI Officer can be found online at www.collegezone.comcollegeillinois.org.
- c) FOIA requests may be submitted via mail, e-mail, fax, or hand delivery. Requests should be mailed or hand delivered to:

The Illinois Student Assistance Commission

1755 Lake Cook Road
Deerfield, Illinois 60015
Attn: FOI Officer

- d) E-mailed requests should be sent to the FOI Officer at: ISAC.FOIA@isac.orgillinois.gov, and should indicate in the subject line of the e-mail that it contains a FOIA request. The specific request should be in the body of the email and should indicate whether an emailed response is adequate. Faxed FOIA requests should be faxed to 847-948-5033, Attn: FOI Officer, and should indicate whether a faxed response is adequate.

Section 5376.302 Information To Be Provided in Requests for Records

A request for records should include:

- a) The complete name, mailing address and telephone number of the requester;
- b) As specific a description as possible of the records sought. Requests that the Agency considers unduly burdensome or categorical may be denied. (See Section 3(g) of FOIA and Section 5376.402 of this Part.);
- c) A statement as to the requested medium and format for the Agency to use in providing the records sought: for example, paper, specific types of digital or magnetic media, or videotape;
- d) A statement as to the requested manner for the Agency to use in providing the records sought: for example, inspection at Agency headquarters or providing paper or electronic copies;
- e) A statement as to whether the requester needs certified copies of all or any portion of the records, including reference to the specific documents that require certification; and
- f) A statement as to whether the request is for a commercial purpose.

Section 5376.303 Requests for Records for Commercial Purposes

- a) *It is a violation of FOIA for a person to knowingly obtain a record for a commercial purpose without disclosing that it is for a commercial purpose if requested to do so by the Agency. (Section 3.1(c) of FOIA)*
- b) *The Agency shall respond to a request for records to be used for a commercial purpose within 21 working days after receipt. The response shall:*

- 1) *Provide to the requester an estimate of the time required by the Agency to provide the records requested and an estimate of the fees to be charged, which the Agency may require the person to pay in full before copying the requested documents;*
 - 2) *Deny the request pursuant to one or more of the exemptions set out in Section 5376.202 or 5376.203;*
 - 3) *Notify the requester that the request is unduly burdensome and extend an opportunity to the requester to attempt to reduce the request to manageable proportions; or*
 - 4) *Provide the records requested. (Section 3.1(a) of FOIA)*
- c) *Unless the records are exempt from disclosure, the Agency shall comply with a request within a reasonable period considering the size and complexity of the request, and giving priority to records requested for non-commercial purposes. (Section 3.1(b) of FOIA)*

SUBPART D: AGENCY RESPONSE TO REQUESTS FOR RECORDS

Section 5376.401 Timeline for Agency Response

- a) *Except as stated in subsection (b) or (c), the Agency will respond to any written request for records within 5 business days after its receipt of the request. Failure to comply with a written request, extend the time for response, or deny a request within 5 business days after its receipt shall be considered a denial of the request. If the Agency fails to respond to a request within the requisite periods in this subsection (a) but thereafter provides the requester with copies of the requested records, it will not impose a fee for such copies. If the Agency fails to respond to a request received, it will not treat the request as unduly burdensome as provided under Section 5376.402. (Section 3(d) of FOIA) A written request from the Agency to provide additional information shall be considered a response to the FOIA request.*
- b) *The time limits prescribed in subsection (a) may be extended for not more than 5 business days from the original due date for any of the following reasons:*
 - 1) *The requested records are stored in whole or in part at locations other than the office having charge of the requested records;*

- 2) *The request requires the collection of a substantial number of specified records;*
 - 3) *The request is couched in categorical terms and requires an extensive search for the records responsive to it;*
 - 4) *The requested records have not been located in the course of routine search and additional efforts are being made to locate them;*
 - 5) *The requested records require examination and evaluation by personnel having the necessary competence and discretion to determine if they are exempt from disclosure under Section 7 or 7.5 of FOIA or should be revealed only with appropriate deletions;*
 - 6) *The request for records cannot be complied with by the Agency within the time limits prescribed by subsection (a) without unduly burdening or interfering with the operations of the Agency; or*
 - 7) *There is a need for consultation, which shall be conducted with all practicable speed, with another public body or among two or more components of a public body having a substantial interest in the determination or in the subject matter of the request. (Section 3(e) of FOIA)*
- c) *The person making a request and the Agency may agree in writing to extend the time for compliance for a period to be determined by the parties. If the requester and the Agency agree to extend the period for compliance, a failure by the Agency to comply with any previous deadlines shall not be treated as a denial of the request for the records. (Section 3(e) of FOIA)*
- d) *When additional time is required for any of the reasons set forth in subsection (b), the Agency will, within 5 business days after receipt of the request, notify the person making the request of the reasons for the extension and the date by which the response will be forthcoming. Failure to respond within the time permitted for extension shall be considered a denial of the request. If the Agency fails to respond to a request within the time permitted for extension but thereafter provides the requester with copies of the requested public records, it may not impose a fee for those copies. If the Agency issues an extension and subsequently fails to respond to the request, it will not treat the request as unduly burdensome under Section 5376.402. (Section 3(f) of FOIA)*

Section 5376.402 Requests for Records that the Agency Considers Unduly Burdensome

- a) *The Agency will fulfill requests calling for all records falling within a category unless compliance with the request would unduly burden the Agency, there is no way to narrow the request, and the burden on the Agency outweighs the public interest in the information. Before invoking this exemption, the Agency will extend to the requester an opportunity to confer with it in an attempt to reduce the request to manageable proportions. (Section 3(g) of FOIA) The amended request must be in writing.*
- b) *If the Agency determines that a request is unduly burdensome, it shall do so in writing, specifying the reasons why it would be unduly burdensome and the extent to which compliance will so burden the operations of the Agency. Such a response shall be treated as a denial of the request for information. (Section 3(g) of FOIA)*
- c) *Repeated requests for records that are unchanged or identical to records previously provided or properly denied under this Part from the same person shall be deemed unduly burdensome. (Section 3(g) of FOIA)*

Section 5376.403 Requests for Records that Require Electronic Retrieval

- a) A request for records that requires electronic retrieval will be treated the same as any other request for records, with the same timeline and extensions as allowed for other records.
- b) The Agency will retrieve and provide electronic records only in a format and medium that is available to the Agency.

Section 5376.404 Denials of Requests for Records

- a) The Agency will deny requests for records when:
 - 1) Compliance with the request would unduly burden the Agency, as determined pursuant to Section 5376.402, and the requester has not reduced the request to manageable proportions; or
 - 2) The records are exempt from disclosure pursuant to Section 7 or 7.5 of FOIA or Section 5376.202 or 5376.203 of this Part.
- b) The denial of a request for records must be in writing.
 - 1) The notification shall include a description of the records denied; *the reason for the denial, including a detailed factual basis for the application of any exemption claimed; and the names and titles or positions of each person responsible for the denial* (Section 9(a) of FOIA);

- 2) *Each notice of denial shall also inform such person of the right to review by the Public Access Counselor and provide the address and phone number for the Public Access Counselor (Section 9(a) of FOIA); and*
- 3) *When a request for records is denied on the grounds that the records are exempt under Section 7 or Section 7.5 of FOIA, the notice of denial shall specify the exemption claimed to authorize the denial and the specific reasons for the denial, including a detailed factual basis and a citation to the supporting legal authority (Section 9(b) of FOIA).*
- c) A requester may treat the Agency's failure to respond to a request for records within 5 business days after receipt of the written request as a denial for purposes of the right to review by the Public Access Counselor.
- d) If the Agency has given written notice pursuant to Section 5376.401(d), failure to respond to a written request within the time permitted for extension may be treated as a denial for purposes of the right to review by the Public Access Counselor.
- e) *Any person making a request for records shall be deemed to have exhausted his or her administrative remedies with respect to that request if the Agency fails to act within the time periods provided in Section 5376.401. (Section 9(c) of FOIA)*

Section 5376.405 Requests for Review of Denials - Public Access Counselor

- a) *A person whose request to inspect or copy a record is denied by the Agency may file a request for review with the Public Access Counselor established in the Office of the Attorney General not later than 60 days after the date of the final denial. (Section 9.5(a) of FOIA)*
- b) *If the Agency asserts that the records are exempt under Section 5376.202(a)(4) or (a)(7), it will, within the time periods provided for responding to a request, provide written notice to the requester and the Public Access Counselor of its intent to deny the request in whole or in part. The notice will include:*
 - 1) *A copy of the request for access to records;*
 - 2) *The proposed response from the Agency; and*
 - 3) *A detailed summary of the Agency's basis for asserting the exemption. (Section 9.5(b) of FOIA)*

- c) *Upon receipt of a notice of intent to deny from the Agency, the Public Access Counselor shall determine whether further inquiry is warranted. The Public Access Counselor shall process the notification of intent to deny as detailed in Section 9.5(b) of FOIA. Times for response or compliance by the Agency under Section 5376.401 will be tolled until the Public Access Counselor concludes his or her inquiry. (Section 9.5(b) of FOIA)*
- d) *Within 7 working days after the Agency receives a request for review from the Public Access Counselor, the Agency shall provide copies of records requested and shall otherwise fully cooperate with the Public Access Counselor. (Section 9.5(c) of FOIA)*
- e) *Within 7 working days after it receives a copy of a request for review and request for production of records from the Public Access Counselor, the Agency may, but is not required to, answer the allegations of the request for review. The answer may take the form of a letter, brief, or memorandum. The Public Access Counselor shall forward a copy of the answer to the person submitting the request for review, with any alleged confidential information to which the request pertains redacted from the copy. (Section 9.5(d) of FOIA)*
- f) *The requester may, but is not required to, respond in writing to the answer within 7 working days and shall provide a copy of the response to the Agency. (Section 9.5(d) of FOIA)*
- g) *In addition to the request for review, and the answer and response thereto, if any, a requester or the Agency may furnish affidavits or records concerning any matter germane to the review. (Section 9.5(e) of FOIA)*
- h) *A binding opinion from the Attorney General shall be binding upon both the requester and the Agency, subject to administrative review under Section 5376.407. (Section 9.5(f) of FOIA)*
- i) *If the Attorney General decides to exercise his or her discretion to resolve a request for review by mediation or by a means other than issuance of a binding opinion, the decision not to issue a binding opinion shall not be reviewable. (Section 9.5(f) of FOIA)*
- j) *Upon receipt of a binding opinion concluding that a violation of FOIA has occurred, the Agency shall either take necessary action immediately to comply with the directive of the opinion or shall initiate administrative review under Section 5376.407. If the opinion concludes that no violation of FOIA has occurred, the requester may initiate administrative review under Section 5376.407. (Section 9.5(f) of FOIA)*

- k) *If the Agency discloses records in accordance with an opinion of the Attorney General, the Agency is immune from all liabilities by reason thereof and shall not be liable for penalties under FOIA. (Section 9.5(f) of FOIA)*
- l) *If the requester files suit under Section 5376.406 with respect to the same denial that is the subject of a pending request for review, the requester shall notify the Public Access Counselor, and the Public Access Counselor shall so notify the Agency. (Section 9.5(g) of FOIA)*
- m) *The Attorney General may also issue advisory opinions to the Agency regarding compliance with FOIA. A review may be initiated upon receipt of a written request from the Director of the Agency or the Agency's Chief Legal Counsel, which shall contain sufficient accurate facts from which a determination can be made. The Public Access Counselor may request additional information from the Agency in order to assist in the review. If the Agency relies in good faith on an advisory opinion of the Attorney General in responding to a request, the Agency is not liable for penalties under FOIA, so long as the facts upon which the opinion is based have been fully and fairly disclosed to the Public Access Counselor. (Section 9.5(h) of FOIA)*

Section 5376.406 Circuit Court Review

A requester also has the right to file suit for injunctive or declaratory relief in the Circuit Court for Cook County or for the county in which the requester resides, in accordance with the procedures set forth in Section 11 of FOIA.

Section 5376.407 Administrative Review

A binding opinion issued by the Attorney General shall be considered a final decision of an administrative agency, for purposes of administrative review under the Administrative Review Law [735 ILCS 5/Art. III]. An action for administrative review of a binding opinion of the Attorney General shall be commenced in Cook County or Sangamon County. An advisory opinion issued to the Agency shall not be considered a final decision of the Attorney General for purposes of this Section. (Section 11.5 of FOIA)

SUBPART E: PROCEDURES FOR PROVIDING RECORDS TO REQUESTERS

Section 5376.501 Inspection of Records

- a) The Agency may make available records for personal inspection at the Agency's office where the documents are located or at another location agreed to by both the Agency and the requester. No original record shall be removed from State-

controlled premises except under constant supervision of the agency responsible for maintaining the record. The Agency may provide records in duplicate forms, including, but not limited to, paper copies, data processing printouts, videotape, microfilm, audio tape, reel to reel microfilm, photographs, computer disks and diazo.

- b) *When a person requests a copy of a record maintained in an electronic format, the Agency shall furnish it in the electronic format specified by the requester, if feasible. If it is not feasible to furnish the records in the specified electronic format, then the Agency shall furnish it in the format in which it is maintained by the Agency, or in paper format at the option of the requester. (Section 6(a) of FOIA)*
- c) A requester may inspect records by appointment only, scheduled subject to space availability. The Agency will schedule inspection appointments to take place during normal business hours, which are 8:30 a.m. to 5:00 p.m. Monday through Friday, exclusive of State holidays. If the requester must cancel the viewing appointment, the requester shall so inform the Agency as soon as possible before the appointment.
- d) In order to maintain routine Agency operations, the requester may be asked to leave the inspection area for a specified period of time.
- e) The requester will have access only to the designated inspection area.
- f) Requesters shall not be permitted to take briefcases, folders or similar materials into the room where the inspection takes place. An Agency employee may be present during the inspection.
- g) The requester shall segregate and identify the documents to be copied during the course of the inspection.

Section 5376.502 Copying of Records; Fees

- a) In accordance with Section 5376.503, unless a fee is otherwise fixed by statute, the Agency will provide copies of records and certifications of records in accordance with the fee schedule set forth in Appendix A.
- b) *In calculating its actual cost for reproducing records or for the use of the equipment of the Agency to reproduce records, the Agency will not include the costs of any search for and review of the records or other personnel costs associated with reproducing the records. (Section 6(b) of FOIA)*

- c) In order to expedite the copying of records that the Agency cannot copy, due to the volume of the request or the operational needs of the Agency, in the timelines established in Section 5376.401, the requester may provide, at the requester's expense, the copy machine, all necessary materials, and the labor to copy the public records at the Agency headquarters in Section 5376.301, or at another location agreed to by both the Agency and the requester. No original record shall be removed from State-controlled premises except under constant supervision of the agency responsible for maintaining the record.
- d) Copies of records will be provided to the requester only upon payment of any fees due. *The Agency may charge the requester for the actual cost of purchasing the recording medium, whether disc, diskette, tape, or other medium, but the Agency will not charge the requester for the costs of any search for and review of the records or other personnel costs associated with reproducing the records.* (Section 6(a) of FOIA) Payment must be by check or money order sent to the Agency, payable to "Illinois Student Assistance Commission".
- e) If a contractor is used to inspect or copy records, the following procedures shall apply:
 - 1) The requester, rather than the Agency, must contract with the contractor;
 - 2) The requester is responsible for all fees charged by the contractor;
 - 3) The requester must notify the Agency of the contractor to be used prior to the scheduled on-site inspection or copying;
 - 4) Only Agency personnel may provide records to the contractor;
 - 5) The Agency must have verification that the requester has paid the Agency, if payment is due, for the copying of the records before providing the records to the contractor; and
 - 6) The requester must provide to the Agency the contractor's written agreement to hold the records secure and to copy the records only for the purpose stated by the requester.

Section 5376.503 Reduction and Waiver of Fees

- a) *Fees may be reduced or waived by the Agency if the requester states the specific purpose for the request and indicates that a waiver or reduction of the fee is in the public interest. In making this determination, the Agency will consider the following:*

- 1) *Whether the principal purpose of the request is to disseminate information regarding the health, safety, welfare or legal rights of the general public; and*
 - 2) *Whether the principal purpose of the request is personal or commercial benefit. For purposes of this subsection (a), "commercial benefit" shall not apply to requests made by news media when the principal purpose of the request is to access and disseminate information regarding the health, safety, welfare, or legal rights of the general public. (Section 6(c) of FOIA)*
- b) The Agency will provide copies of records without charge to federal, State, and municipal agencies, Constitutional officers and members of the General Assembly, and not- for-profit organizations providing evidence of good standing with the Secretary of State's Office.
- c) *Except to the extent that the General Assembly expressly provides, statutory fees applicable to copies of records when furnished in a paper format will not be applicable to those records when furnished to a requester in an electronic format. (Section 6(a) of FOIA)*

Section 5376 APPENDIX A Fee Schedule for Duplication and Certification of Records

TYPE OF DUPLICATION	FEE (PER COPY)
Paper copy from original, up to and including 50 copies of black and white, letter or legal sized copies	No charge
Paper copy from original, in excess of 50 copies of black and white, letter or legal sized copies	\$.15/page
Paper copy from microfilm original	\$.15/page
Microfilm diazo from original	\$.50/diazo
VHS video copy of tape	Actual cost of the reproduction
Audio tape copy of tape	Actual cost of the reproduction
CD ROM disk	Actual cost of the reproduction
Photograph from negative	Actual cost of the reproduction
Blueprints/oversized prints	Actual cost of the reproduction
Paper copies in color or in a size other than letter or legal	Actual cost of the reproduction
Certification fee	\$1.00/record

NOTE: Expense for delivery other than by First Class U.S. Mail must be borne by the requester.