

## THE Extra Mile

GOING THE EXTRA MILE SO YOU DON'T HAVE TO

### ISBE Adopted Special Education Regulations Stopped by JCAR/New Special Education Due Process Legislation Awaits Governor's Signature--

On December 14, 2006, ISBE adopted new regulations governing special education in Illinois to bring the state into compliance with IDEA 2004 and the implementing regulations issued by the U.S. Department of Education.

However, on January 9, 2007, the Joint Committee on Administrative Rules ("JCAR"), a body which is responsible for the final review of administrative agency rules in Illinois, voted unanimously to prohibit ISBE from placing the new regulations into effect because they pose a "a serious threat to the interests of children with disabilities and special education teachers."

The Regulations will not go into effect unless ISBE is able, within 180 days, to modify the rules to JCAR's satisfaction,

or the General Assembly passes a joint resolution lifting the prohibition, also within 180 days. Legislative hearings on the rules are also possible.

At the heart of the controversy surrounding the newly adopted rules is [Section 226.730](#) regarding special education class sizes beginning with the 2008-2009 school year. The class size provision "decategories" the class size limitations in the current regulations, replacing them with standards based on the amount of time a student spends in special education. In addition, the proposed rules require each school district to adopt and effectuate a policy describing how staffing decisions will be made to ensure that all services required under students' IEPs will be provided by the beginning of the 2007-2008 school year.

Equally controversial has been [Section 226.130](#) of the ISBE Regulations which,

*Continued on Page 2*

### IASA/HLERK Announce Dates for 2007 Regional Conferences on Recent Developments in School Law

The Illinois Association of School Administrators and HLERK are pleased to announce the dates for our Fall School Law Conferences. **Save the date for the location nearest you!**

Last year demand exceeded available space at our Oak Brook location and we anticipate even greater demand this year, so please register with IASA at the earliest possible time to assure a space. Dates and locations are:

**October 4, 2007**  
Gateway Center  
Collinsville

**October 11, 2007**  
Weaver Ridge Country Club  
Peoria

**October 25, 2007**  
Hyatt Lodge, Hamburger  
University  
Oak Brook

*Please contact Vanessa Clohessy with questions.*

*We will notify you in The Extra Mile and at [www.HLERK.com](http://www.HLERK.com) when registration forms become available. IASA and HLERK thank you for your support of our conferences.*

Offices:  
Arlington Hts. 847-670-9000  
Springfield 217-546-9200  
Belleville 618-355-7850

### Consumer Price Index

Percent change for the month of **November, 2006**, for the urban wage earners & clerical indices as reported by the Bureau of Labor Statistics.

	All Urban (CPI-U)	Workers (CPI-W)
Chicago-Mthly	0.2	0.3
12 Mth	0.3	-0.2
St. Louis-6 Mth	0.7	0.8
12 Mth	2.1	2.3
U.S. Mthly	-0.1	-0.1
12 Mth	2.0	1.8

December CPI figures will be released January 18, 2006. Visit the most recent CPI at our website, [www.hlerk.com](http://www.hlerk.com)

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### Reminders/Notes

- Remember your February 1st deadline for completion of your principal evaluations under Section 24A-15 of the *School Code*.
- Remember your statutory and CBA deadlines for reductions-in-force or dismissal of certificated and educational support personnel. Contact Athena Christofalos with your evaluation, dismissal or RIF issues.
- Make your reservation today for the HLERK/PDN programs on special education law: **February 16 in Springfield and March 1 in Chicago**. Contact the PDN at 715.836.9900 or register on the web at [www.meds-pdn.com](http://www.meds-pdn.com).

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if adopted, requires that by the beginning of the 2008-2009 school year, all school districts implement the use of a process that determines whether a child suspected of or having a specific learning disability responds to scientific, research-based intervention as part of its evaluation procedures.

**New Due Process Legislation-** Awaiting Governor Blagojevich's signature is [SB 2796](#) amending Article 14 of the *School Code* ([105 ILCS 5/14-1.02](#), *et seq.*) by making several major changes to the procedures for impartial due process hearings and expedited hearings, in part to implement the requirements of IDEA 2004.

First, the bill provides that a parent has two years following the date the parent, student, or school knew or should have known of the event(s) forming the basis of the request to initiate a complaint. The impartial hearing officer may only consider those issues properly raised in the original hearing request or the amended request.

Once the hearing begins, parties must make reasonable efforts to present their cases within a cumulative period of seven days. The final day of the hearing is to be scheduled no more than 30 days after the first day of the hearing unless good cause, such as the denial to any party of a fair and reasonable amount of time to present its case in its entirety or the deprivation to any party of its safeguards under IDEA 2004, is shown.

Importantly, the bill grants school districts sixty *school* days to complete a case study evaluation and develop an IEP. In addition, this bill amends Section 14-8.02b regarding expedited hearings, principally involving timelines. A hearing must be set no earlier than *15 calendar days* following either the district's receipt of the hearing request or upon completion of the resolution meeting whichever is earlier and no later than twenty *school* days after receipt of the hearing request.

***Please contact Bennett Rodick, Nancy Krent or Jay Kraning with your special education inquiries in light of the JCAR action and the new due process legislation.***

**Court Orders Removal of Finding of Child Abuse from Teacher Assistant's Record-** In *Lyons v. Illinois Dep't of Children and Family Services*, 2006 WL 3232152 (3<sup>rd</sup> Dist. November 2, 2006) the Illinois Appellate Court overturned a DCFS finding of child abuse by a teacher's aide while at school.

The Illinois Department of Child and Family Services ("DCFS") had cited a teacher's assistant, who worked at a school for emotionally and behaviorally disturbed children, for child abuse after Lyons physically restrained a 10 year old student after the student cursed at him in a lunchroom and refused to apologize.

The aide took the student to one of two rooms in the school that were used as time out rooms and, when the student resisted being put into a corner, the assistant restrained him and brought him to the floor.

The student suffered a minor head bruise. The aide appealed the DCFS abuse finding to circuit court, and that court reversed DCFS' finding of abuse and ordered the abuse report removed from his record.

The Illinois Appellate Court upheld the circuit court, finding that DCFS' finding of abuse in this case was against the manifest weight of the evidence because the assistant had no history of violence or similar prior incidents of abuse, the student had a history of aggression and was at no "greater risk of harm" than other students, and the injury was minor and no instrument was used in the restraint. The Court similarly found that the location of the restraint was not an issue.

***To request a copy of this decision or with questions concerning DCFS proceedings involving school districts please contact Debra Kaplan.***

**Illinois State Board of Education Provides Schools Guidance for Influenza Epidemics-** The Illinois Department of Public Health, in cooperation with the Illinois State Board of Education, recently released a guide to supplement school districts' preparation for a possible pandemic influenza outbreak. The guide is designed to assist schools in integrating pandemic planning into their existing emergency procedures. The guide includes planning checklists for schools

and families, sample letters to send to parents and media outreach, influenza census forms, promotional materials, and fact sheets on seasonal influenza versus pandemic influenza.

***For a copy of the guide, go to [http://www.idph.state.il.us/pandemic\\_flu/school\\_guide/school\\_pan\\_flu\\_guide.pdf](http://www.idph.state.il.us/pandemic_flu/school_guide/school_pan_flu_guide.pdf), or contact Debra Kaplan.***

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