

(2) through (5) No change.

Rulemaking Specific Authority 466.004(4), 466.0235 FS. Law Implemented 466.0235 FS. History—New 12-26-06, Amended 6-11-07,\_\_\_\_\_.

## Section II Proposed Rules

### DEPARTMENT OF EDUCATION

#### State Board of Education

RULE NO.:                    RULE TITLE:  
6A-1.0391                    Evaluation of Supplemental  
   Educational Service Providers

PURPOSE AND EFFECT: The proposed new rule will implement a process for assigning service designations for state-approved supplemental educational services providers as required by Section 1008.331, Florida Statutes.

SUMMARY: Section 1008.331, Florida Statutes, requires Supplemental Educational Services (SES) providers to submit, by May 1 of each year, in an electronic form provided by the Department, student learning gains as demonstrated by mastery of goals established by the Local Educational Agency (LEA), student attendance and completion data, and parent satisfaction survey results, unless a prior agreement has been made with an LEA. The Florida Department of Education must use this information and satisfaction survey results of LEAs and principals to assign service designations of unsatisfactory, satisfactory, and excellent to each state-approved SES provider by July 1. The rule will establish guidelines for SES providers for collection and submission of required information and detail the process of calculating data for assigning service designations.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: The agency has determined that this rule will have an impact on small business. A SERC has been prepared by the agency.

Any person who wishes to provide information regarding a statement of estimated regulatory costs, or provide a proposal for a lower cost regulatory alternative must do so in writing within 21 days of this notice.

RULEMAKING AUTHORITY: 1001.02(1) FS.

LAW IMPLEMENTED: 1008.331 FS.

A HEARING WILL BE HELD AT THE DATE, TIME AND PLACE SHOWN BELOW:

DATE AND TIME: March 16, 2010, 9:00 a.m.

PLACE: Tallahassee Community College, 444 Appleyard Drive, Building 38, Room 105, Tallahassee, Florida

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Lisa Bacen, Bureau Chief, Bureau of Student Assistance, 325 West Gaines Street, Suite 348, Tallahassee, Florida 32399-0400

THE FULL TEXT OF THE PROPOSED RULE IS:

#### 6A-1.0391 Evaluation of Supplemental Educational Service Providers.

(1) Purpose. This rule implements an evaluation system for state-approved supplemental educational service providers, in accordance with Section 1008.331(5), Florida Statutes.

(2) Definitions. For the purpose of this rule, the following definitions will be used:

(a) “Local Educational Agency” or “LEA” means the school district responsible for the administration of supplemental educational services.

(b) “Pre-assessment” means the valid and reliable assessment instrument capable of identifying a student’s deficiencies in mastering the Sunshine State Standards Benchmarks or Access Points, as defined in Section 1003.41, Florida Statutes.

(c) “Post-assessment” means the valid and reliable assessment instrument capable of measuring a student’s achievement on the same set of Sunshine State Standards Benchmarks or Access Points as adopted in Rule 6A-1.09401, F.A.C., measured in the pre-assessment and as identified in the student learning plan.

(d) “Provider” means the individual or organization approved by the Department to provide supplemental educational services.

(e) “Supplemental Educational Services” means the services as defined in subsection 6A-1.039(2), F.A.C.

(f) “Student learning plan” means the plan as defined in subsection 6A-1.039(2), F.A.C.

(g) “Length of prescribed program” means the number of hours of services to be provided to each student based on the provider’s rate and LEA’s per pupil allocation.

(f) “Student” means a student who was enrolled, placed, or assigned to a supplemental education services provider and has a district approved student learning plan for the current year.

(g) “Attendance” means the SES student hours submitted by the provider and approved by the LEA.

(h) “Completion” means an SES student that has expended the total per-pupil allocation and has participated in the provider administered post-assessment.

(i) “Per-pupil allocation” means the maximum amount of funds that may be expended for each eligible student for supplemental educational services based on the Title I, Part A allocation.

(j) “Prior agreement” means that the provider and the LEA have an agreement that the LEA will submit the required data on behalf of the provider to the Department by May 1.

#### (3) Documentation of data.

(a) A provider shall thoroughly document all student data, including student learning gains and attendance and completion data, and make all student data available to the Department or LEA upon request.

(b) A false statement made by a provider in conjunction with the information required by this rule will be reported by the Department to the appropriate law enforcement agency for prosecution pursuant to Section 837.06, Florida Statutes, (false official statements).

(c) Should the Department find evidence that a provider submitted any falsified data required by this rule, the Department shall open a complaint and investigate the matter in accordance with subsection 6A-1.039(7), F.A.C.

(4) Minimum sample size for provider evaluation. In order to ensure statistical reliability and to avoid the inadvertent release of personally identifiable student data prohibited by Section 1002.22, Florida Statutes, providers that serve ten or fewer students in an academic year will not receive a service designation.

(5) Student assigned after April 1. Any student enrolled with a provider's program after April 1 shall be considered in the following year's service designation.

(6) Evaluation method. The evaluation method for a service designation is comprised of the following five factors, of which a total of 500 points may be earned:

(a) Student learning gains as demonstrated by mastery of applicable benchmarks or access points set forth in the Sunshine State Standards as adopted in Rule 6A-1.09401, F.A.C., worth 300 points;

(b) Attendance and completion data worth 75 points;

(c) Parent surveys worth 25 points;

(d) LEA surveys worth 50 points; and

(e) Principal surveys worth 50 points.

(7) Student learning gains. Student learning gains will be determined in the following manner:

(a) The LEA, in collaboration with the provider and the parent, shall identify a maximum of five measurable goals for each student in each subject area, based on provider-administered pre-assessment data and available LEA data that identify the student's deficiencies. The goals shall be included in the student learning plan. The LEA shall have authority over the content of these goals.

(b) Upon student completion of the length of prescribed program with a provider, the provider shall administer a post-assessment to determine the number of goals that were mastered by the student. The provider shall report the outcome of the services on the final progress report and submit the final progress report to the student's parents and LEA.

(c) The LEA shall review final progress reports and maintain them for use in the verification phase outlined in subsection (15) of this rule.

(d) The provider shall use Form SES 300, Data Entry for LEAs and SES Providers, which is hereby incorporated by reference to become effective with the effective date of this rule, to report the number of goals identified in the student learning plan and the number of goals mastered by the student

directly to the Department on its website at: <http://fldoe.org/flbpso> by May 1 of each school year, unless a prior agreement has been made with the LEA.

(e) Within 30 days of the May 1 deadline, the Department shall calculate for each provider:

1. The total number of goals by subject area pursuant to paragraph (7)(a) of this rule for all students completing the length of prescribed program;

2. The total number of goals by subject area that were mastered pursuant to paragraph (b) for all students receiving supplemental educational services; and

3. The percentage of goals mastered using the data from paragraphs (a) and (b) as described in paragraph (7)(d) of this rule.

(f) The Department shall determine a raw score based upon the percentage of goals mastered multiplied by 300. The raw score constitutes the points for the total student learning gains mastered.

(8) Attendance and completion data. Attendance and completion data shall be calculated in the following manner:

(a) The LEA shall include the length of prescribed program for each student in the student learning plan based on each provider's hourly rate and the LEA's per-pupil allocation.

(b) Verified attendance rosters and invoices shall be maintained by the provider to ensure the hours of tutoring delivered to each student are correct. The attendance rosters and invoices shall be available to the district and the Department upon request.

(c) For each student enrolled with the provider at any time during the school year, the provider shall use Form SES 300 to report the length of prescribed program and the actual number of hours provided directly to the Department on its website at <http://fldoe.org/flbpso> by May 1 of each school year, unless a prior agreement has been made with the school LEA.

(d) The Department shall calculate for each provider:

1. The length of prescribed program pursuant to paragraph (8)(a) of this rule of all students enrolled in Supplemental Educational Services;

2. The total number of hours delivered pursuant to paragraph (8)(b) of this rule to all students enrolled before April 1 of each school year; and

3. The percentage of hours that were completed.

(e) A raw score shall be calculated by the Department for each provider based upon the percentage determined in subparagraph (8)(d)3. of this rule multiplied by 75. The raw score constitutes the total attendance and completion points achieved.

(9) Surveys. The Department shall survey three separate populations: parents, LEAs, and principals where supplemental educational services are provided on site.

(a) All survey questions will have five response levels, to be scored as follows:

1. An answer of “strongly disagree” is worth zero points.
2. An answer of “disagree” is worth one point.
3. An answer of “neither agree nor disagree” is worth two points.
4. An answer of “agree” is worth three points.
5. An answer of “strongly agree” is worth four points.

(b) Parent survey. By May 1 of each school year, parents may submit satisfaction results of provider performance using Form SES 301, Supplementary Educational Services Survey for Parents, which is hereby incorporated by reference and made a part of this rule to become effective with the effective date of the rule on the Department’s website at <http://fldoe.org/flbpso> or in hard-copy.

1. The provider shall make Form SES 301 available to parents electronically and in hard-copy at the tutoring site. Hard-copy surveys shall be collected by the provider and submitted electronically on behalf of the parent on the Department’s website at <http://fldoe.org/flbpso>. Hard-copy surveys shall be mailed by the provider to the Department at 325 West Gaines Street, Suite 348, Tallahassee, FL 32399-0400. Only one parent survey per child will be permitted.

2. Parent survey results shall be calculated by the Department for each provider based upon the percentage of possible points compared to earned points, multiplied by 25.

3. In the event that the Department does not receive parent survey data for a provider, the Department shall modify the calculation to account for the missing survey data by subtracting the number of possible points for the missing survey population from 500, to modify the overall number of points possible as defined in subsection (6) of this rule.

(c) LEA survey. By May 1 of each school year, each LEA shall submit a uniform online survey on the Department’s website at <http://fldoe.org/flbpso> using Form SES 302, Supplementary Educational Services Survey for Districts, which is hereby incorporated by reference to become effective with the effective date of this rule to evaluate each provider’s performance. In the event that the LEA is also acting as a provider, the LEA shall not submit a survey evaluating its performance.

1. LEA survey results shall be calculated by the Department for each provider based upon the percentage of possible points compared to earned points, multiplied by 50.

2. In the event that the Department does not receive LEA survey data for a provider, the Department shall modify the calculation to account for the missing survey data by subtracting the number of possible points for the missing survey population from 500, to modify the overall number of points possible as defined in subsection (5) of this rule.

(d) Principal survey. By May 1 of each school year, each principal of a school where SES is provided on site shall submit a uniform online survey on the Department’s website at

<http://mail.fldoe.org/flbpso> using Form SES 303, Supplementary Educational Services Survey for Principals, which is hereby incorporated by reference to become effective with the effective date of this rule, to evaluate each provider’s performance.

1. Principal survey results shall be calculated by the Department for each provider based upon the percentage of possible points compared to earned points, multiplied by 50.

2. In the event that the Department does not receive principal survey data for a provider, the Department shall modify the calculation to account for the missing survey data by subtracting the number of possible points for the missing survey population from 500, to modify the overall number of points possible as defined in subsection (5) of this rule.

(10) Calculation of service designation percentage. To calculate the services designation percentage for each provider, the Department shall:

(a) Round each raw score in subsections (7) through (9) of this rule to the nearest whole number.

(b) Determine the sum of all raw scores.

(c) Divide the sum of the raw scores by 500 points pursuant to subsection (5) of this rule to determine the total earned points.

(d) Multiply the total earned points by 100. The product will determine a provider’s services designation percentage.

(11) Service Designation Scale. To assign provider service designations, the Department shall use the following scale:

(a) Providers receiving a score of 80% or above will be classified as “excellent.”

(b) Providers receiving a score of at least 50% and less than 80% will be classified as “satisfactory”.

(c) Providers receiving a score of less than 50% will be classified as “unsatisfactory.”

(12) Reporting timeline. To facilitate timely processing of data and data verification, May 1 of each year shall serve as the deadline for all data submission from providers, LEAs, and principals. The Department shall only accept data submitted after May 1 if the provider demonstrates in writing that unforeseen and uncontrollable circumstances took place prohibiting the provider from complying with the reporting timeline.

(13) Incomplete data. If the Department determines that unforeseen and uncontrollable circumstances prohibited the provider from submitting data by the deadline, the Department shall assign a service designation of “incomplete” to the provider. The provider must submit the data within 45 days of the Department’s determination. If the provider fails to submit the data by the deadline the service designation will be assigned pursuant to subsection (14).

(14) Failure to submit data. Notwithstanding subparagraphs (9)(a)3., (b)2., and (c)2., of this rule to ensure compliance with the reporting deadline by providers, in the

event that a provider fails to submit any data, in whole or in part, within 14 days of the May 1 submission deadline, the Department shall assign a score of zero for any missing data based on 500 possible points.

(15) Verification of Data. To ensure accurate and correct data, prior to the announcement of service designations the Department will provide an opportunity to all LEAs and providers to verify the data submitted by the provider and the LEA using Form SES 300 and correct any data reporting errors. The length of verification phase will be determined at the discretion of the Department, and shall not last more than 14 days.

(16) Method of announcement of service designation. By July 1 of each year, service designations will be made available to providers, LEAs, parents, and the public on the Department’s website, found at <http://fldoe.org/flbppo>.

(17) Improvement Plan.

(a) The Department shall establish an improvement plan for any provider with an “unsatisfactory” service designation. The improvement plan must include goals for improvement, and may include, but is not limited to, the following:

1. Improvement of the provider assessment tool;
2. A student attendance improvement plan;
3. A parent outreach action plan;
4. Improvement in the implementation of the assessment mechanism;
5. Improvement in the curriculum and instructional materials; and
6. Improvement in the quality of provider staff.

(b) The provisions for removal as set forth in subsection 6A-1.039(8), F.A.C., shall apply to a provider awarded an unsatisfactory service designation for two consecutive years.

(18) Grievance procedure. A provider shall utilize the Grievance Procedures for Providers, found in Rule 6A-1.039, F.A.C., to resolve complaints about service designations.

Rulemaking Authority 1001.02(1), 1008.331(5)(d) FS. Law Implemented 1008.331(5) FS. History—New \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE: Dr. Frances Haithcock, Chancellor, Division of Public Schools

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Dr. Eric J. Smith, Commissioner of Education

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: February 3, 2010

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: October 16, 2009

**DEPARTMENT OF EDUCATION**

**State Board of Education**

RULE NOS.:	RULE TITLES:
6A-1.0451	Florida Education Finance Program Student Membership Surveys

6A-1.045111 Hourly Equivalent to 180-Day School Year

PURPOSE AND EFFECT: The purpose of the rule amendment to Rule 6A-1.0451, F.A.C., is to account for the hourly equivalent of the 180-day school year for purposes of reporting student membership for participation in the Florida Education Finance Program and to delete obsolete language regarding transportation reporting. The proposed new Rule 6A-1.045111, F.A.C., will establish an equivalent number of hours to the 180-day school year requirement, consistent with statutorily required instructional time for participation in the Florida Education Finance Program.

SUMMARY: The purpose of the new rule and the amendment to the existing rule is to ensure that the 180-day school year requirement relating to statutorily required instructional time for participation in the Florida Education Finance Program is clearly articulated in rule.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: No Statement of Estimated Regulatory Cost was prepared.

Any person who wishes to provide information regarding a statement of estimated regulatory costs, or provide a proposal for a lower cost regulatory alternative must do so in writing within 21 days of this notice.

RULEMAKING AUTHORITY: 1001.02(1), 1001.42(12)(a), 1001.51(11)(a), 1003.02(1)(g), 1011.60(2), 1011.61(1)(c)2. FS. LAW IMPLEMENTED: 1001.42(12)(a), 1001.51(11)(a), 1003.02(1)(g), 1011.60(2), 1011.61(1)(a)1., 1011.61(1)(c)2. FS.

A HEARING WILL BE HELD AT THE DATE, TIME AND PLACE SHOWN BELOW:

DATE AND TIME: March 16, 2010, 9:00 a.m.

PLACE: Tallahassee Community College, 444 Appleyard Drive, Building 38, Room 105, Tallahassee, Florida

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Robert Large, Assistant General Counsel, 325 W. Gaines St. Room 1244, Tallahassee, FL 32399, (850)245-0442

THE FULL TEXT OF THE PROPOSED RULE IS:

6A-1.0451 Florida Education Finance Program Student Membership Surveys.

(1) through (3) No change.

(4) During the year, at least four (4) full-time equivalent student membership surveys shall be conducted under the administrative direction of and on a schedule provided by the Commissioner. The second period and the third period full-time equivalent student membership survey for students in a program scheduled for one hundred eighty (180) school days, or the hourly equivalent as provided in Rule 6A-1.045111, F.A.C., shall each be equal to ninety, one hundred eightieths (90/180) of the school year, or the hourly equivalent. Students in a program scheduled for less than one hundred eighty (180)

school days, or the hourly equivalent as provided in Rule 6A-1.045111, F.A.C., in any full-time equivalent student membership survey shall be a fraction of a full-time equivalent member as provided in Section 1011.61(1), F.S. The four (4) survey periods, insofar as practicable, shall be scheduled to take the extended school year, staggered school year, and other variations of or from the regular one hundred eighty (180) day school year into consideration. School districts may submit amendments to student membership survey data in accordance with the following schedule: Survey Period 1 (July) may not be amended after September 30 following the survey; Survey Period 2 (October) may not be amended after March 31 following the survey; Survey Period 3 (February) may not be amended after July 31 following the survey; Survey Period 4 (June) may not be amended after August 31 following the survey, or until a membership survey audit as required by Rule 6A-1.0453, F.A.C., has been completed, whichever shall take place first. Such amendments which are submitted too late to be reviewed and included in the last membership data determining the earnings of Florida education finance program funds for the given year shall be treated as prior year adjustments.

(5) No change.

~~(6) When passengers other than public school students in membership, grades K-12 and exceptional, are transported on a school bus at the same time public school students are transported to or from school, the bus route mileage required to transport students as authorized in Section 1011.68(2), F.S., shall be computed as follows:~~

~~(a) If the number of passengers other than public school students in membership, grades K-12 and exceptional, transported on a bus route exceeds five (5) percent of the manufacturer's rated seating capacity of the bus, the loaded bus route miles for that trip shall be adjusted by the percentage of passengers that are not public school students in membership, grades K-12 and exceptional.~~

~~(b) Bus miles traveled over a side route to load or unload passengers other than public school students in membership, grades K-12 and exceptional, and miles traveled transporting exclusively other passengers shall not be reported to or counted by the Department for the purpose of FEFP transportation funding.~~

~~(6)(7)~~ For students in all special programs, a student's full-time equivalent membership shall be reported in the respective special program cost factor prescribed in Section 1011.62(1)(c), F.S., when the student is eligible and is attending a class, course, or program which has met all of the criteria for the special program cost factor. In addition, when reporting program membership, each student shall be reported in the same special program category as reported in the full-time equivalent membership survey.

~~(7)(8)~~ ESE 135, Department of Juvenile Justice FTE School Funding Certification is hereby incorporated by reference and made a part of this rule. This form may be obtained from the Bureau of School Business Services, Office of Funding and Financial Reporting, Department of Education, 325 West Gaines Street, Tallahassee, Florida 32399.

Rulemaking Specific Authority 1001.02(1) FS. Law Implemented 1011.61, 1011.62(1), 1011.68 FS. History--New 4-19-74, Amended 10-31-74, Repromulgated 12-5-74, Amended 6-1-75, 1-29-76, 4-12-78, 8-2-79, 2-4-81, 7-28-81, 4-27-82, 7-13-83, 7-10-85, Formerly 6A-1.451, Amended 3-12-86, 9-30-87, 10-31-88, 12-5-90, 10-26-94, 12-15-98, 3-24-08,\_\_\_\_\_.

6A-1.045111 Hourly Equivalent to 180-Day School Year. Each school district which participates in the state appropriations for the Florida Education Finance Program shall:

(1) Operate all schools for a term of one hundred eighty (180) actual teaching days as prescribed by Section 1011.60(2), Florida Statutes, or the hourly equivalent of one hundred eighty (180) actual teaching days, determined as prescribed below:

(a) Kindergarten through grade 3 or in an authorized prekindergarten exceptional program: Not less than seven hundred twenty (720) net instructional hours.

(b) Grades 4 through 12: Not less than nine hundred (900) net instructional hours.

(2) For schools operating on a double-session calendar or utilizing an experimental calendar approved by the Department of Education, operate such schools for a term of one hundred eighty (180) actual teaching days as prescribed by Section 1011.60(2), Florida Statutes, or the hourly equivalent of one hundred eighty (180) actual teaching days, determined as prescribed below:

(a) Kindergarten through grade 3: Not less than six hundred thirty (630) net instructional hours.

(b) Grades 4 through 12: Not less than eight hundred ten (810) net instructional hours.

Rulemaking Authority 1001.02(1), 1001.42(12)(a), 1001.51(11)(a), 1003.02(1)(g), 1011.60(2), 1011.61(1)(c)2. FS. Law Implemented 1001.42(12)(a), 1001.51(11)(a), 1003.02(1)(g), 1011.60(2), 1011.61(1)(a)1., 1011.61(1)(c)2. FS. History--New \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE:  
Deborah Kearney, Office of General Counsel

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Dr. Eric J. Smith, Commissioner of Education

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: February 2, 2010

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: January 22, 2010

**DEPARTMENT OF EDUCATION****State Board of Education**

RULE NO.: 6A-1.0943  
 RULE TITLE: Statewide Assessment for Students with Disabilities

**PURPOSE AND EFFECT:** The purpose of this rule amendment is to update procedures related to the administration of statewide assessments for students with disabilities, revise criteria related to participation in statewide alternate assessment, and establish procedures for exemption from participation in the statewide assessment when extraordinary circumstances occur. Consistent with current rule requirements, the proposed rule establishes that students with disabilities will participate in the statewide assessment without accommodations unless the individual educational team or team that develops the plan required under Section 504 of the Rehabilitation Act determines and documents that accommodations are needed for participation in the statewide assessment based on accommodations the student has received during instruction. The proposed rule deletes references to specific types of accommodations (e.g. enlarging text, Braille, use of calculators) and instead states that allowable accommodations are those included in the state test administration manuals published by the Department of Education. The proposed rule retains language permitting the use of unique accommodations not included in the statewide test administration manuals upon approval of the Commissioner of Education. The proposed rule includes new language with regard to the provision of testing accommodations for students with disabilities who participate in the statewide assessment but are not currently enrolled in public school. The proposed rule revises previously included language with regard to criteria for determining when participation in the statewide alternate assessment is appropriate for a student. The new criteria provide greater specificity than the current criteria. The proposed rule adds language permitting a special exemption from participation in the statewide assessment under extraordinary circumstances. Currently, Rule 6A-1.09431, F.A.C., permits a special exemption from the graduation test requirement in extraordinary circumstances. The proposed rule will provide for an exemption from the statewide assessment at any grade level in the event of an extraordinary circumstance. Extraordinary circumstances are defined as events or conditions that prevent the student from physically demonstrating the mastery of skills that are measured by the statewide assessment. The special exemption must be approved by the Commissioner of Education and procedures for submission of such a request are stipulated in the proposed rule. The proposed rule deletes sections of the current rule that are unnecessary as the authority is established through other statutes or rules. This includes requirements related to

including test scores of students with disabilities in the state accountability system and exemptions from the assessment required for graduation.

The effect of these amendments will be a rule that reflects current statutory citations, updated assessment procedures, more specific criteria for use by district staff to determine students for whom the alternate assessment is the appropriate statewide assessment, and specific procedures to exempt a student from participation in statewide assessment in the event of an extraordinary circumstance.

**SUMMARY:** The rule establishes requirements and procedures related to participation in statewide assessment for students with disabilities to include the provision of accommodations, criteria for determining participation in the statewide alternate assessment, and procedures for requesting a special exemption from the Commissioner of Education for participation in the statewide assessment when extraordinary circumstances occur. The rule shall take effect on July 1, 2010.

**SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS:** No Statement of Estimated Regulatory Cost was prepared.

Any person who wishes to provide information regarding a statement of estimated regulatory costs, or provide a proposal for a lower cost regulatory alternative must do so in writing within 21 days of this notice.

**RULEMAKING AUTHORITY:** 1003.428(5), 1003.43(8), 1003.571, 1008.22(3), (11) FS.

**LAW IMPLEMENTED:** 1003.428(5), 1003.43(8), 1003.571, 1008.22(3), (11) FS.

**A HEARING WILL BE HELD AT THE DATE, TIME AND PLACE SHOWN BELOW:**

**DATE AND TIME:** March 16, 2010, 9:00 a.m.

**PLACE:** Tallahassee Community College, 444 Appleyard Drive, Building 38, Room 105, Tallahassee, Florida

**THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS:** Bambi J. Lockman, Chief, Bureau of Exceptional Education and Student Services, 325 West Gaines Street, Suite 614, Tallahassee, Florida 32399; (850)245-0475

**THE FULL TEXT OF THE PROPOSED RULE IS:**

(Substantial rewording of Rule 6A-1.0943 follows. See Florida Administrative Code for present text.)

6A-1.0943 Statewide Assessment for Students with Disabilities.

(1) The Department of Education shall assure the participation of students with disabilities as defined by Section 1003.01(3)(a), Florida Statutes, or subsection 6A-19.001(6), F.A.C., in the statewide assessment program and provide technical assistance to school districts in the implementation of the requirements of this rule including appropriate

accommodations for students participating in the statewide assessment program as required by Sections 1008.22(3)(c)6., 1003.428(5) and 1003.43(8), Florida Statutes.

(2) All students with disabilities will participate in the statewide assessment program based on state standards, pursuant to Rule 6A-1.09401, F.A.C., without accommodations unless:

(a) The individual educational plan (IEP) team, or the team that develops the plan required under Section 504 of the Rehabilitation Act, determines and documents that the student requires allowable accommodations during instruction and for participation in a statewide assessment; or

(b) The IEP team determines that a student with a significant cognitive disability meets the criteria for participating in the statewide alternate assessment under subsection (4) of this rule.

(3) Provision of accommodations for students with disabilities participating in the statewide assessment program.

(a) Each school board shall utilize appropriate and allowable accommodations for statewide assessments within the limits prescribed herein and current statewide assessment test administration manuals published by the Florida Department of Education Bureau of Assessment and School Performance, and Bureau of Exceptional Education and Student Services. Copies of the manuals are available by contacting the Department of Education, 325 West Gaines Street, Tallahassee, Florida 32399-0400. Accommodations are defined as adjustments to the presentation of the statewide assessment questions, methods of recording examinee responses to the questions, scheduling for the administration of a statewide assessment to include amount of time for administration, settings for administration of a statewide assessment, and/or the use of assistive technology/devices to facilitate the student's participation in a statewide assessment. Accommodations that negate the validity of a statewide assessment are not allowable. Within the limits specified in this rule, allowable statewide assessment accommodations are based on current instructional accommodations and accessible instructional materials used by the student in the classroom.

(b) The accommodations described in paragraph (3)(a) of this rule are authorized for any student who has been determined to be an eligible student with a disability pursuant to Section 1003.01(3)(a), Florida Statutes, and Rule 6A-6.0331, F.A.C., and has a current IEP, or who has been determined to be a student with a disability pursuant to subsection 6A-19.001(6), F.A.C. The accommodations must be identified on the student's IEP or the plan developed under Section 504 of the Rehabilitation Act.

(c) The need for any unique accommodations for use on a statewide assessment not outlined in the statewide assessment test administration manuals published by the Florida Department of Education as described in paragraph (3)(a) of this rule must be submitted to the Department of Education for approval by the Commissioner of Education.

(d) District personnel are required to implement the accommodations in a manner that ensures that the test responses are the independent work of the student. Personnel are prohibited from assisting a student in determining how the student will respond or directing or leading the student to a particular response. In no case shall the accommodations authorized herein be interpreted or construed as an authorization to provide a student with assistance in determining the answer to any test item.

(e) Students with disabilities who are not currently enrolled in public schools or receiving services through public school programs and require accommodations in order to participate in the statewide assessment program may have access to accommodations identified in paragraph (3)(a) of this rule if the following information is provided:

1. Evidence that the student has been found eligible as a student with a disability as defined by Section 1003.01(3)(a), Florida Statutes, or subsection 6A-19.001(6), F.A.C.; and

2. Documentation that the requested accommodations are regularly used for instruction.

(4) Participation in the statewide alternate assessment. The decision that a student with a significant cognitive disability will participate in the statewide alternate assessment is made by the IEP team and recorded on the IEP. The following criteria must be met:

(a) The student is unable to master the grade-level general state content standards pursuant to Rule 6A-1.09401, F.A.C., even with appropriate and allowable instructional accommodations, assistive technology, or accessible instructional materials;

(b) The student is participating in a curriculum based on the state standards access points, pursuant to Rule 6A-1.09401, F.A.C., for all academic areas; and

(c) The student requires direct instruction in academics based on access points, pursuant to Rule 6A-1.09401, F.A.C., in order to acquire, generalize, and transfer skills across settings.

(5) Pursuant to Section 1008.22(3)(c)6., Florida Statutes, upon approval of the Commissioner, a student with a disability, as defined in Section 1003.01(3)(a), Florida Statutes, is eligible for consideration of a special exemption from participation in statewide assessments, including the alternate assessment, under extraordinary circumstances. Extraordinary circumstances are events or conditions that prevent the student from physically demonstrating the mastery of skills that have been acquired and are measured by statewide assessments. A learning, emotional, behavioral, or significant cognitive disability or the receipt of services through the homebound or hospitalized program in accordance with Rule 6A-6.03020, F.A.C., does not, in and of itself, constitute an extraordinary circumstance. Extraordinary circumstances are physical conditions that affect a student's ability to communicate in modes deemed acceptable for statewide assessments, creating a situation where the results of administration of a statewide

assessment would reflect a student’s impaired sensory, manual, or speaking skills rather than the student’s achievement. A request for consideration of this special exemption must be submitted to the Commissioner in writing from the district school superintendent no later than thirty (30) school days prior to the assessment administration window. Attached documentation shall include:

(a) Written description of the student’s disabling condition, including a specific description of the student’s impaired sensory, manual or speaking skills and the extraordinary circumstances for the exemption request;

(b) Written documentation of the most recent evaluation data;

(c) Written description of the disability’s effect on the student’s achievement;

(d) Written evidence that the student has had the opportunity to learn the skills being tested; and,

(e) Written evidence that the manifestation of the student’s disability prohibits the student from responding to the statewide assessment, even when appropriate accommodations are provided so that the result of the testing reflects the student’s impaired sensory, manual, or speaking skills rather than the student’s achievement.

The Commissioner shall determine whether the exemption will be granted based upon the documentation provided by the district school superintendent. A request for the determination of a special exemption must be submitted annually and approved by the Commissioner.

(6) This rule will become effective on July 1, 2010.

Rulemaking Specific Authority 1008.22(3), 1003.428(5), 1003.43(8), 1003.571 229.57, 232.246 FS. Law Implemented 1008.22(3), 1003.428(5), 1003.43(8), 1003.571 229.57 FS. History—New 9-12-78, Amended 3-4-84, Formerly 6A-1.943, Amended 6-12-90, 9-17-01, \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE: Dr. Frances Haithcock, Chancellor, K-12 Public Schools

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Dr. Eric J. Smith, Commissioner of Education

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: January 29, 2010

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: August 14, 2009

**DEPARTMENT OF EDUCATION**

**State Board of Education**

RULE NO.: 6A-1.09430  
 RULE TITLE: Florida Alternate Assessment Requirements

PURPOSE AND EFFECT: This rule establishes procedures for the implementation of the Florida Alternate Assessment and establishes test cut scores for the performance levels. This

assessment is designed specifically for students with significant cognitive disabilities and is aligned to the Next Generation Sunshine State Standards Access Points.

SUMMARY: This rule establishes procedures for the implementation of an assessment for students with significant cognitive disabilities.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: No Statement of Estimated Regulatory Cost was prepared.

Any person who wishes to provide information regarding a statement of estimated regulatory costs, or provide a proposal for a lower cost regulatory alternative must do so in writing within 21 days of this notice.

RULEMAKING AUTHORITY: 1001.02, 1008.22 FS.

LAW IMPLEMENTED: 1001.11, 1008.22, 1008.25 FS.

A HEARING WILL BE HELD AT THE DATE, TIME AND PLACE SHOWN BELOW:

DATE AND TIME: March 16, 2010, 9:00 a.m.

PLACE: Tallahassee Community College, 444 Appleyard Drive, Building 38, Room 105, Tallahassee, Florida

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Bambi Lockman, Chief, Bureau of Exceptional Education and Student Services, Division of Public Schools, 325 West Gaines Street, Suite 614, Tallahassee, FL 32399; (850)245-0475

THE FULL TEXT OF THE PROPOSED RULE IS:

6A-1.09430 Florida Alternate Assessment Requirements.

(1) The statewide program of educational assessment required by Section 1008.22(3)(c)(11), Florida Statutes, shall be developed under the direction and supervision of the Commissioner of Education and shall be titled the Florida Alternate Assessment (FAA). It shall be:

(a) Kept secured at all times.

(b) Provided to all school districts in the quantity needed for the students in the district.

(c) Administered in accordance with standard written instructions appropriate for the examination. The written instructions will be issued by the Commissioner in the form of test administration manuals and other written communications, as required, and provided to school districts prior to each test.

(d) Revised and updated as needed.

(2) The test shall be developed in consultation with teachers and other appropriate professionals and shall be approved by the Commissioner prior to being administered to students. The FAA shall:

(a) Consist of four (4) sections: one (1) measuring reading skills, one (1) measuring mathematics skills, one (1) measuring science skills, and one (1) measuring writing skills.

(b) Be derived from the skills adopted in Rule 6A-1.09401, F.A.C.

(3) The FAA shall be administered as follows:



(a) All eligible students as defined in Rule 6A-1.0943, F.A.C., in grades three through ten shall take the reading and mathematics tests. All eligible students in grades five, eight, and eleven shall take the science test. All eligible students in grades four, eight, and ten shall take the writing test.

(b) Provisions shall be made by the Commissioner to permit the test to be administered to home school students and private school students under conditions which preserve the security of the test and require the public school districts to be responsible for the test administration procedures.

(4) Examinee scores on FAA Reading, Mathematics, Science and Writing shall be reported on a raw score scale from 0 to 144 defined by the baseline test administered during January and February 2008. Each examinee shall receive a total score for each subject area.

(5) The total scores on FAA Reading, Mathematics, Science and Writing are also reported on an achievement-level scale. The total scores that correspond to each achievement level are shown below. Beginning with the effective date of this rule, the achievement levels for Reading, Mathematics, Science and Writing in the first phase of implementation shall be as shown in the following tables.

(a) Reading grade-level raw scores (0-144) for each achievement level:

Grade	Level 1	Level 2	Level 3	Level 4	Level 5	Level 6	Level 7	Level 8	Level 9
3	0-23	24-39	40-62	63-69	70-84	85-98	99-105	106-119	120-144
4	0-27	28-43	44-62	63-71	72-85	86-98	99-106	107-117	118-144
5	0-28	29-43	44-62	63-70	71-85	86-98	99-110	111-122	123-144
6	0-27	28-44	45-62	63-77	78-88	89-98	99-111	112-123	124-144
7	0-27	28-44	45-62	63-74	75-89	90-98	99-112	113-126	127-144
8	0-25	26-44	45-62	63-73	74-88	89-98	99-111	112-126	127-144
9	0-25	26-42	43-62	63-73	74-89	90-98	99-115	116-126	127-144
10	0-27	28-42	43-62	63-72	73-87	88-98	99-113	114-126	127-144

(b) Math grade-level raw scores (0-144) for each achievement level:

Grade	Level 1	Level 2	Level 3	Level 4	Level 5	Level 6	Level 7	Level 8	Level 9
3	0-22	23-38	39-57	58-70	71-86	87-98	99-110	111-125	126-144
4	0-22	23-41	42-57	58-69	70-86	87-98	99-110	111-126	127-144
5	0-24	25-39	40-57	58-72	73-86	87-98	99-110	111-123	124-144
6	0-25	26-38	39-57	58-71	72-87	88-98	99-111	112-126	127-144
7	0-25	26-40	41-57	58-69	70-86	87-98	99-110	111-126	127-144
8	0-26	27-40	41-57	58-69	70-85	86-98	99-110	111-126	127-144
9	0-23	24-41	42-57	58-70	71-90	91-98	99-107	108-130	131-144
10	0-28	29-44	45-57	58-69	70-91	92-98	99-108	109-129	130-144

(c) Science grade-level raw scores (0-144) for each achievement level – step 1:

Grade	Level 1	Level 2	Level 3	Level 4	Level 5	Level 6	Level 7	Level 8	Level 9
5	0-22	23-38	39-58	59-75	76-87	88-102	103-114	115-124	125-144
8	0-23	24-39	40-58	59-71	72-84	85-102	103-113	114-124	125-144
11	0-23	24-39	40-58	59-71	72-85	86-102	103-111	112-122	123-144

(d) Writing grade-level raw scores (0-144) for each achievement level – step 1:

Grade	Level 1	Level 2	Level 3	Level 4	Level 5	Level 6	Level 7	Level 8	Level 9
4	0-23	24-35	36-63	64-70	71-86	87-98	99-111	112-128	129-144
8	0-27	28-40	41-63	64-71	72-86	87-98	99-111	112-125	126-144
10	0-24	25-41	42-63	67-73	74-86	87-98	99-111	112-126	127-144

(6) The Commissioner of Education shall review annually student performance levels and recommend amendments to the existing achievement levels adopted in rule to the State Board of Education as necessary.

(7) The test shall be administered according to a schedule approved by the Commissioner.

(8) Invalidity of a section of this rule shall not invalidate the remainder of the rule.

Rulemaking Authority 1001.02, 1008.22 FS. Law Implemented 1001.11, 1008.22, 1008.25 FS. History—New \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE: Dr. Frances Haithcock, Chancellor, Division of Public Schools.  
 NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Dr. Eric J. Smith, Commissioner of Education.  
 DATE PROPOSED RULE APPROVED BY AGENCY HEAD: February 2, 2010  
 DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: January 15, 2010

**DEPARTMENT OF EDUCATION  
 State Board of Education**

RULE NO.: 6A-1.09441  
 RULE TITLE: Requirements for Programs and Courses Which are Funded Through the Florida Education Finance Program and for Which the Student May Earn Credit Toward High School Graduation

PURPOSE AND EFFECT: The purpose of this rule amendment is to update the “Course Code Directory and Instructional Personnel Assignments” by which school districts receive FEFP (Florida Education Finance Program) funding. The effect will be an updated directory of courses for students to take to earn credit toward high school graduation.

SUMMARY: This rule amendment will incorporate the “2010-2011 Course Code Directory and Instructional Personnel Assignments” which has been updated to include new courses as well as delete obsolete courses no longer taught in public schools.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: No Statement of Estimated Regulatory Cost was prepared.

Any person who wishes to provide information regarding a statement of estimated regulatory costs, or provide a proposal for a lower cost regulatory alternative must do so in writing within 21 days of this notice.

RULEMAKING AUTHORITY: 1001.02(1), 1009.53(3), 1011.62(1)(r) FS.

LAW IMPLEMENTED: 1009.531, 1009.535, 1009.536, 1011.62(1) FS.

A HEARING WILL BE HELD AT THE DATE, TIME AND PLACE SHOWN BELOW:

DATE AND TIME: March 16, 2010, 9:00 a.m.  
 PLACE: Tallahassee Community College, 444 Appleyard Drive, Building 38, Room 105, Tallahassee, Florida  
 THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Heather Sherry, Office of Articulation, Department of Education, 325 West Gaines Street, Room 1401, Tallahassee, Florida 32399-0400

THE FULL TEXT OF THE PROPOSED RULE IS:

6A-1.09441 Requirements for Programs and Courses Which are Funded Through the Florida Education Finance Program and for Which the Student May Earn Credit Toward High School Graduation.

For student membership in a program or course to generate funding through the Florida Education Finance Program and for the student to receive elective or required credit toward high school graduation for such a program or course, the following conditions shall be met:

(1) through (4) No change.

(5) The “Course Code Directory and Instructional Personnel Assignments 2010-2011 ~~2009-2010~~,” is hereby incorporated by reference and made a part of this rule. The Commissioner may publish the document in appropriate and useful formats such as printed copy, electronic database access, or electronic disc. The directory may be obtained from the Office of Articulation K-12 Public Schools, Department of Education, 325 West Gaines Street, Tallahassee, Florida 32399. The Commissioner of Education may approve additional courses and course descriptions for which funding could be generated through the Florida Education Finance Program. Such additional course listings will be made available as approved.

Rulemaking Authority 1001.02(1), 1009.53(3), 1011.62(1)(r) FS. Law Implemented 1009.531, 1009.534, 1009.535, 1009.536, 1011.62(1) FS. History—New 12-20-83, Formerly 6A-1.9441, Amended 2-6-86, 12-28-86, 4-4-88, 12-13-88, 12-11-89, 1-15-91, 2-20-92, 7-13-93, 10-18-94, 8-28-95, 4-18-96, 7-17-97, 8-12-98, 5-3-99, 5-3-01, 10-15-01, 7-30-02, 4-21-05, 11-21-05, 7-27-06, 1-18-07, 5-19-08, 1-5-09, 6-22-09,\_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE: Heather Sherry, Director, Office of Articulation, Department of Education.

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Dr. Eric J. Smith, Commissioner of Education.

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: January 29, 2010

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: September 18, 2009

**DEPARTMENT OF EDUCATION  
 State Board of Education**

RULE NO.: 6A-4.02451  
 RULE TITLE: Florida Teacher Standards for ESOL Endorsement

PURPOSE AND EFFECT: The proposed rule updates the Performance Standards, Skills, and Competencies for the Endorsement in English for Speakers of Other Languages (ESOL).

SUMMARY: The proposed rule adopts new performance standards, skills, and competencies for the endorsement in ESOL.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: Costs will be minimal. Public school districts will need to update the curricula for their training programs leading to the endorsement in ESOL.

Any person who wishes to provide information regarding a statement of estimated regulatory costs, or provide a proposal for a lower cost regulatory alternative must do so in writing within 21 days of this notice.

RULEMAKING AUTHORITY: 1012.55(1), 1012.56 FS.

LAW IMPLEMENTED: 1012.56, 1012.575 FS.

A HEARING WILL BE HELD AT THE DATE, TIME AND PLACE SHOWN BELOW:

DATE AND TIME: March 16, 2010, 9:00 a.m.

PLACE: Tallahassee Community College, 444 Appleyard Drive, Building 38, Room 105, Tallahassee, Florida

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Lori Rodriguez, Bureau of Academic Achievement through Language Acquisition, Department of Education, 325 West Gaines Street, Suite 501, Tallahassee, Florida 32399; (850)245-0417

THE FULL TEXT OF THE PROPOSED RULE IS:

6A-4.02451 Florida Teacher Standards for ESOL Endorsement Performance Standards, Skills, and Competencies for the Endorsement in English for Speakers of Other Languages.

The competencies and indicators required for approval of educator preparation programs pursuant to Rule 6A-5.066, F.A.C., and for district in-service add-on programs pursuant to Section 1012.575, F.S., for the Endorsement in English for Speakers of Other Languages (ESOL), are contained in the publication, "Florida Teacher Standards for ESOL Endorsement 2010 English for Speakers of Other Languages (ESOL) Endorsement (Florida's English for Speakers of Other Languages (ESOL) Performance Standards, Skills, and Competencies)," which is hereby incorporated by reference and made a part of this rule. These competencies are published on the Bureau of Student Achievement through Language Acquisition, Department of Education website at [www.fldoe.org/aala/perstand.asp](http://www.fldoe.org/aala/perstand.asp). Copies of this publication may also be obtained from the Bureau of Student Achievement through Language Acquisition, K-12 Public Schools, Department of Education, 325 West Gaines Street, Room 501, Tallahassee, Florida 32399-0400. The standards set forth in Florida Teacher Standards for ESOL Endorsement 2010 shall be incorporated into all teacher preparation programs and district in-service add-on programs not later than September 1, 2011.

Rulemaking Authority 1012.55(1) FS. Law Implemented 1012.56, 1012.575 FS. History--New 4-21-09, Amended \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE: Dr. Frances Haithcock, Chancellor, Division of Public Schools

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Dr. Eric J. Smith, Commissioner of Education

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: February 3, 2010

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: October 16, 2009

**DEPARTMENT OF EDUCATION**

**State Board of Education**

RULE NO.: RULE TITLE:

6A-5.071 Master Inservice Plan Requirements

PURPOSE AND EFFECT: The purpose of the rule amendment is to adopt by reference Florida's Professional Development System Evaluation Protocol Standards. The effect is that the standards for professional development will be adopted as required by Section 1012.98, F.S.

SUMMARY: Section 1012.98, F.S. – School Community Professional Development Act, establishes the requirement for a coordinated system of professional development statewide and authorizes the Department of Education to adopt a set of professional development standards, which are used to evaluate the quality of district professional development systems. The Professional Development System Evaluation Protocol Standards are a set of 65 standards containing an overall philosophy and approach to professional learning that is based on and drawn from requirements for professional development contained in Section 1012.98, F.S., as well as the National Staff Development Council's definition of professional learning and supporting research. The proposed rule revision incorporates this set of Standards into the requirements for district professional development systems.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: No Statement of Estimated Regulatory Cost was prepared.

Any person who wishes to provide information regarding a statement of estimated regulatory costs, or provide a proposal for a lower cost regulatory alternative must do so in writing within 21 days of this notice.

RULEMAKING AUTHORITY: 1001.02(1), 1012.98 FS.

LAW IMPLEMENTED: 1010.20, 1011.62, 1012.22, 1012.98 FS.

A HEARING WILL BE HELD AT THE DATE, TIME AND PLACE SHOWN BELOW:

DATE AND TIME: March 16, 2010, 9:00 a.m.

PLACE: Tallahassee Community College, 444 Appleyard Drive, Building 38, Room 105, Tallahassee, Florida

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Eileen McDaniel, Chief, Bureau of Educator Recruitment, Development and Retention, Department of Education, 325 West Gaines Street, Room 124, Tallahassee, Florida 32399-0400

THE FULL TEXT OF THE PROPOSED RULE IS:

6A-5.071 Master Inservice Plan Requirements.

(1) Pursuant to Sections ~~1012.22(1)(i) 230.23 and 1011.62 236.081~~, Florida Statutes, each district school board shall develop and maintain ~~a master inservice plan an inservice education and training program~~ for all ~~district~~ employees based on ~~state adopted standards for high quality professional development as required under Section 1012.98, Florida Statutes. These standards are contained in the publication, Florida's Professional Development System Evaluation Protocol 2010, which is hereby incorporated by reference and made a part of this rule. Copies of Florida's Professional Development System Evaluation Protocol 2010 may be obtained by contacting the Florida Department of Education, 325 West Gaines Street, Room 126, Tallahassee, Florida 32399, or from the website at http://www.teachinflorida.com/professionaldevelopment an assessment of training needs in the district and local schools as described in Section 231.600 and 236.0811, Florida Statutes. The master inservice plan inservice education and training program shall be planned, developed, and administered consistent with Sections 1012.98 and 1012.986, Florida Statutes the law and Chapters 6A-4 and 6A-5, F.A.C., rules of the State Board and the Commissioner of Education. The program shall be described in a district's master plan for inservice education.~~

(2) The master ~~inservice~~ plan for ~~inservice educational training~~ shall be updated annually by September 1, and approved each year by the district school board, director of a developmental research school, or governing authority of an eligible state education agency or organization of nonpublic schools pursuant to the criteria and procedures as follow in subsections (3) through (7) of this rule. ~~By October 1 of each year, a letter verifying that the district school board, director of the developmental research school, or governing authority of an eligible state education agency or organization of nonpublic schools has approved the master inservice plan and that the plan meets the criteria pursuant to this rule shall be sent to the Commissioner.~~

(3) The plan shall include all ~~professional development inservice educational~~ components for all employees from all fund sources including, but not limited to, the following areas:

(a) ~~Implementation Professional development and staff development activities for implementation~~ of school improvement plans for the current fiscal year pursuant to Section ~~1012.98 236.0811~~, Florida Statutes,

(b) ~~Subject content areas Specific components~~ as prescribed in Section ~~1012.98 236.0811~~, Florida Statutes,

(c) ~~School Inservice training for school reform and accountability pursuant to Sections 1000.03 229.591 and 1008.345 229.592~~, Florida Statutes,

(d) Approved add-on certification programs pursuant to Section ~~1012.575 231.174~~, Florida Statutes, and

(e) ~~The William Cecil Golden Professional Development Program for School Leaders, District management training program~~ pursuant to Section ~~1012.986, 231.087(5)~~, Florida Statutes, and

(f) ~~Professional and technical updating for vocational instructional personnel pursuant to Section 231.614, Florida Statutes.~~

(4) Each component shall remain in the plan for a period of at least five (5) years and shall include:

(a) Title,

(b) An identifying number assigned in accordance with DOE Information Data Base Requirements: Volume II Staff Information System as incorporated by reference in Rule 6A-1.0014, F.A.C., in accordance with Section ~~1008.385(2) 229.555(2)~~, Florida Statutes,

(c) The maximum number of inservice points to be awarded for successful completion of the component,

(d) A description of general and specific objectives and activities to be completed,

(e) Component evaluation criteria for determining:

1. ~~Follow-up activities required for successful~~ ~~Successful~~ participant completion,

2. The degree to which specific objectives have been addressed by the component activities as determined by the participants and component leaders, and

3. The effect of the ~~professional development inservice education and training~~ in the educational setting ~~consistent with Section 1012.98, Florida Statutes.~~

(5) A component developed after the annual approval of the plan shall be approved as an amendment to the plan by the ~~district~~ school board, director of the developmental research school, or governing authority of an ~~eligible state~~ education agency or ~~organization of a nonpublic schools organization~~ and shall meet the criteria in subsection (4) of this rule.

(6) Inservice points awarded for successful completion of a component shall be assigned as follows:

(a) One (1) inservice point shall be equivalent to one (1) clock hour of participation, ~~or as specified by the master inservice plan based on competency(ies) demonstrated,~~

(b) Points awarded for completion of college credit shall equate to inservice participation as follows:

1. One (1) semester hour shall equal twenty (20) inservice points,

2. One (1) quarter hour shall equal thirteen (13) and one-third inservice points.

(7) An annual review of the previous year's program operations shall be made and shall include a determination of the program's effectiveness in and the carry-over effects of the inservice education and training into the educational settings as measured by changes to classroom or leadership practices and by changes in student outcomes.

~~(8) By October 1 of each year, a letter verifying that the school board, director of the developmental research school, or governing authority of the education agency or nonpublic school organization has approved the master inservice educational training plan and that the plan meets the criteria pursuant to this rule shall be sent to the Commissioner.~~

~~(8)(9)~~ Master inservice plan records shall be maintained and data shall be reported as follows:

(a) Each school district shall report data information for all approved professional development inservice education and training components as required by the DOE Information Data Base Requirements: Volume II Staff Information System in accordance with Section 1008.385(2) 229.555(2), Florida Statutes. Other education agencies and organizations of nonpublic schools with approved master inservice plans without Department of Education automatic data reporting capabilities shall report by October 1 of each year the required inservice component data information using nonautomated equivalent means;

(b) Information shall be maintained for each component to include the following:

1. Dates the component was delivered,
2. Names of component leaders,
3. Names of participants and performance records,
4. Evaluation of the component,
5. Criteria for successful completion; and

(c) Information shall be maintained for each component participant to include the following:

1. Title and number of the component,
2. Dates of participation,
3. Satisfactory or unsatisfactory completion, and
4. Number of inservice points to be awarded, the eligibility of the points to be used for certification, and expiration date of the educator's certificate(s) if applicable. All requirements for renewal of a Professional Certificate on the basis of completion of inservice points pursuant to Section 1012.585 231.24, Florida Statutes, and Rule 6A-4.0051, F.A.C., shall be met.

~~(9)(10)~~ A developmental research school operated under the control of the State University System, an eligible state education agency, or an organization of nonpublic schools that meets criteria specified in Section 1012.98(4) 236.0811(2), Florida Statutes, may develop and submit a master inservice plan for inservice education and training to the Department for initial approval by the Commissioner. The initial plan shall be developed meeting all criteria in subsections (3) through (7) of this rule. After initial approval of a plan, the continued

approval of the master plan shall be in accordance with the criteria and procedures in subsections (2) through ~~(7)(8)~~ of this rule and requirements for reporting and data maintenance as required in subsection ~~(8)(9)~~ of this rule.

Rulemaking Specific Authority 1012.98 231.600, 236.0811(2) FS. Law Implemented 1012.22(1)(i), 1012.986, 1012.98, 1011.62(3), 1010.20(3)(b) 230.23(4)(i), 231.087(5), 231.600, 236.081(3), 236.0811, 237.34(3)(b), (e) FS. History—New 11-25-75, Formerly 6A-5.72, Amended 4-10-79, 6-28-83, 7-15-84, 12-26-85, Formerly 6A-5.71, Amended 8-28-95, 7-2-98,\_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE: Dr. Frances Haithcock, Chancellor, Division of Public Schools

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Dr. Eric J. Smith, Commissioner of Education

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: February 2, 2010

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: January 15, 2010

**DEPARTMENT OF EDUCATION**

**State Board of Education**

RULE NO.: 6A-6.0571  
 RULE TITLE: Career and Technical Education and Adult General Education Standards and Industry-Driven Benchmarks

PURPOSE AND EFFECT: The purpose of the rule amendment is to adopt the curriculum frameworks for Career and Technical Education and Adult General Education Programs for 2010-2011. The effect is to ensure that school leaders have the updated information and expectations as they plan for the next school year.

SUMMARY: The rule is amended to adopt the curriculum frameworks for Career and Technical Education and Adult General Education for 2010/2011.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: No Statement of Estimated Regulatory Cost was prepared.

Any person who wishes to provide information regarding a statement of estimated regulatory costs, or provide a proposal for a lower cost regulatory alternative must do so in writing within 21 days of this notice.

RULEMAKING AUTHORITY: 1004.92(2)(b)3. FS.

LAW IMPLEMENTED: 1004.92(2)(b)4. FS.

A HEARING WILL BE HELD AT THE DATE, TIME AND PLACE SHOWN BELOW:

DATE AND TIME: March 16, 2010, 9:00 a.m.

PLACE: Tallahassee Community College, 444 Appleyard Drive, Building 38, Room 105, Tallahassee, Florida

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Elsie Rogers, Division of Career and Adult Education, Department of Education, 325 West Gaines St., Suite 720, Tallahassee, FL 32399-0400

THE FULL TEXT OF THE PROPOSED RULE IS:

6A-6.0571 Career and Technical Education and Adult General Education Standards and Industry-Driven Benchmarks.

Section 1004.92, F.S., requires the Department of Education to develop program standards and industry-driven benchmarks for career and technical education, and adult and community education programs. The criteria for qualification of individual courses for inclusion in the classification of secondary career education programs prescribed in Section 1011.80, F.S., or Workforce Development Education programs as prescribed in Section 1011.62, F.S., are annually adopted by the State Board and shall be published by the Commissioner in a document titled, “Career and Technical Education Programs, Academic Year 2010/2011 Curriculum Frameworks by Career Cluster” ~~“Standards, Benchmarks, and Frameworks for Career and Technical Education, Academic Year 2009/2010,”~~ or in the document “Adult General Education Standards and Curriculum Frameworks 2010-2011.” ~~“Curriculum Frameworks for Adult General Education, 2009/2010.”~~ These criteria are hereby incorporated by this rule and made a part of the rules of the State Board of Education to become effective with the effective date of this rule. Copies of these publications may be obtained from the Division of ~~Career and Adult Workforce~~ Education, Department of Education, The Turlington Building, 325 West Gaines Street, Tallahassee, Florida 32399 or from the Department’s website at <http://www.fldoe.org/workforce/dwdframe> and [http://www.fldoe.org/workforce/dwdframe/ad\\_frame.asp](http://www.fldoe.org/workforce/dwdframe/ad_frame.asp).

(1) District school boards and community colleges boards of trustees variance authority. District school boards of education and community college boards of trustees are authorized, to vary up to ten (10) percent of the intended outcomes of each framework included in the document “Career and Technical Education Programs, Academic Year 2010-2011 Curriculum Frameworks by Career Cluster” ~~“Standards, Benchmarks, and Frameworks for Career and Technical Education, Academic Year 2009/2010,”~~ and “Adult General Education Standards and Curriculum Frameworks 2010-2011.” ~~“Curriculum Frameworks for Adult General Education, 2009/2010.”~~ The variance does not apply to frameworks identifying occupations requiring state or federal licensure, certification or registration.

(2) Commissioner of Education waiver authority. The Commissioner of Education may approve a school’s waiver request submitted by a district school board to allow the school to substitute locally approved intended outcomes for State Board approved outcomes included in the documents “Career and Technical Education Programs, Academic Year 2010-2011

Curriculum Frameworks by Career Cluster” ~~“Standards, Benchmarks, and Frameworks for Career and Technical Education, Academic Year 2009/2010”~~ and “Adult General Education Standards and Curriculum Frameworks 2010-2011.” ~~“Curriculum Frameworks for Adult General Education, 2009/2010,”~~ provided that:

- (a) The framework does not identify occupations requiring state or federal licensure, certification or registration;
- (b) Locally approved outcomes specified for the state approved program adequately address the major concepts/content contained in the curriculum framework;
- (c) The waiver request fulfills the provisions of Section 1001.10, F.S.

Rulemaking Authority 1004.92(2)(b)3. FS. Law Implemented 1004.92(2)(b)4. FS. History—New 10-30-78, Amended 10-23-79, 5-29-80, 7-9-81, 7-6-82, 5-29-83, 6-14-84, 7-10-85, Formerly 6A-6.571, Amended 7-9-86, 7-22-87, 8-30-88, 7-31-90, 7-31-91, 7-31-92, 7-31-93, 7-31-94, 4-30-96, 1-23-00, 7-21-08, 4-21-09, \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE: Loretta Costin, Interim Chancellor, Division of Career and Adult Education

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Dr. Eric J. Smith, Commissioner of Education

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: February 1, 2010

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: February 5, 2010

**DEPARTMENT OF EDUCATION**

**State Board of Education**

RULE NO.:	RULE TITLE:
6A-6.0785	Charter School Applicant Training Standards

PURPOSE AND EFFECT: The proposed new rule will codify Department standards for charter school applicant training and establish a procedure for charter school sponsors to demonstrate that their training standards meet or exceed the Department of Education’s standards.

SUMMARY: The proposed new rule will establish a procedure by which sponsors may require charter applicants to attend training provided by the sponsor in lieu of the training provided by the Department.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: Districts opting to provide training may incur minimal costs relating to the notification of such training opportunities.

Any person who wishes to provide information regarding a statement of estimated regulatory costs, or provide a proposal for a lower cost regulatory alternative must do so in writing within 21 days of this notice.

RULEMAKING AUTHORITY: 1002.33 FS.

LAW IMPLEMENTED: 1002.33 FS.

A HEARING WILL BE HELD AT THE DATE, TIME AND PLACE SHOWN BELOW:

DATE AND TIME: March 16, 2010, 9:00 a.m.

PLACE: Tallahassee Community College, 444 Appleyard Drive, Building 38, Room 105, Tallahassee, Florida

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Adam Miller, Director of Charter Schools, Office of Independent Education and Parental Choice, 325 West Gaines Street, Suite 522, Tallahassee, Florida 32399-0400

THE FULL TEXT OF THE PROPOSED RULE IS:

6A-6.0785 Charter School Applicant Training Standards. Training will be provided to charter school applicants in accordance with Section 1002.33(6)(g), Florida Statutes.

(1)(a) Standards for charter school applicant training are specified in Form IEPC-TS, Charter School Applicant Training Standards Certification Form 2009, hereinafter, Training Standards Certification Form, which is hereby incorporated by reference to become a part of this rule upon the effective date of this rule.

(b) The Training Standards Certification Form establishes the standards for charter school applicant training. The standards were developed by the Department pursuant to Section 1002.33(6)(g), Florida Statutes, and address the following topics: charter school laws and rules, the application process, charter school sponsor duties and services, developing business plans, projecting enrollment, estimating costs and income, accurate financial planning and good business practices, requirements of Financial and Program Cost Accounting and Reporting for Florida Schools as incorporated by reference in Rule 6A-1.001, F.A.C., charter school audit requirements, and the types and amounts of state and federal financial assistance a charter school may be eligible to receive.

(c) Copies of the Training Standards Certification Form may be obtained from the Office of Independent Education and Parental Choice, Department of Education, 325 West Gaines Street, Tallahassee, Florida 32399.

(2) A sponsor intending to require charter school applicants to participate in training provided by the sponsor in lieu of the Department's training pursuant to Section 1002.33(6)(g)2., Florida Statutes, must annually certify that the sponsor's training standards meet or exceed the standards developed by the Department through the following process:

(a) The sponsor shall complete, sign, and submit a Training Standards Certification Form prior to offering training to charter school applicants no later than May 1 of each year. The form shall be submitted to the Office of Independent Education and Parental Choice, Florida Department of Education, 325 West Gaines Street, Tallahassee, Florida 32399.

(b) Upon receipt of the Training Standards Certification Form, the Department will within ten (10) business days notify the sponsor if the form is complete and satisfactorily demonstrates that the sponsor's standards meet or exceed the standards developed by the Department. If the form is not complete, or if additional information is required, the Department will notify the sponsor in writing.

(c) Upon receipt of notification that the Training Standards Certification Form has been accepted by the Department the sponsor shall:

1. Send written or electronic notification about the training requirement to the prospective charter school applicants known to the sponsor;

2. Post a notice about the required training in a prominent place on the sponsor's internet website; and

3. Verbally inform each charter school applicant of the training requirement at the time intent to submit an application is made known to the sponsor.

(3) A sponsor that does not intend to require charter school applicants to participate in training provided by the sponsor in lieu of the Department's training shall provide notification of the applicant training requirement established by Section 1002.33(6)(g)2., Florida Statutes, by sending written or electronic notification to the prospective charter school applicants known to the sponsor. The notification shall include the Department's charter school website.

(4) Applicant training must be offered annually by July 31 and scheduled in a manner that provides all applicants a reasonable opportunity to participate.

(5) Upon completion of the training, the provider shall present a certificate of participation to the applicant and maintain a record of the training date and the name and title of each attendee.

(6) The sponsor may not require charter school applicants to attend sponsor training in lieu of the Department's training prior to the effective date of this rule.

Rulemaking Authority 1002.33(26) FS. Law Implemented 1002.33(6)(g) FS. History--New.

NAME OF PERSON ORIGINATING PROPOSED RULE: Michael Kooi, Executive Director, Office of Independent Education and Parental Choice

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Dr. Eric Smith, Commissioner, Department of Education

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: February 2, 2010

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: July 10, 2009

**DEPARTMENT OF EDUCATION****State Board of Education**

RULE NO.: 6A-6.0788  
 RULE TITLE: Notice Requirements for Charter School Performance Data

**PURPOSE AND EFFECT:** The purpose of this new rule is to outline the manner in which charter schools, that serve at least ten students who are tested on the statewide assessment and who do not receive a school grade or school improvement rating, will provide student performance data to the required recipients.

**SUMMARY:** The proposed rule will establish requirements for certain charter schools to report student performance data on their website and to the public at large.

**SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS:** Charter schools required to comply with this rule may incur minimal costs associated with providing student assessment data in writing to the required recipients.

Any person who wishes to provide information regarding a statement of estimated regulatory costs, or provide a proposal for a lower cost regulatory alternative must do so in writing within 21 days of this notice.

**RULEMAKING AUTHORITY:** 1002.33(21), (26) FS.

**LAW IMPLEMENTED:** 1002.33(21) FS.

**A HEARING WILL BE HELD AT THE DATE, TIME AND PLACE SHOWN BELOW:**

**DATE AND TIME:** March 16, 2010, 9:00 a.m.

**PLACE:** Tallahassee Community College, 444 Appleyard Drive, Building 38, Room 105, Tallahassee, Florida

**THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS:** Adam Miller, Director of Charter Schools, Office of Independent Education and Parental Choice, 325 West Gaines Street, Suite 522, Tallahassee, Florida 32399-0400

**THE FULL TEXT OF THE PROPOSED RULE IS:**

6A-6.0788 Notice Requirements for Charter School Performance Data.

The following provisions have been established to administer the notice requirements of Section 1002.33(21)(b), Florida Statutes.

(1) Distribution of student assessment data.

(a) Department of Education duties. The Department of Education shall annually report student assessment data pursuant to Section 1002.34(3)(c), Florida Statutes, for charter schools that do not receive a school grade or school improvement rating and serve at least ten (10) students who are tested on the statewide assessment test through the individual School Accountability Reports accessible on the Department's website at <http://schoolgrades.fldoe.org>. The data for a school grading component shall be suppressed in cases where the

number of students tested is less than ten (10). The Department shall notify applicable charter schools that the student assessment data is available within ten (10) days of its posting.

(b) Charter school duties. The charter school shall report the student assessment data to the required recipients no later than thirty (30) days after receipt of notification that the data is available in the charter school's School Accountability Report. The data shall be provided in writing on school letterhead to each parent of a student at the charter school, the parent of a child on a waiting list for the charter school, the district in which the charter school is located, and the charter school's governing board, and shall include, as applicable: the percentage of students meeting high standards in reading, math, writing, and science; the percentage of students making learning gains in reading and math; the percentage of the lowest performing twenty-five (25) percent of students making learning gains in reading and math; and the percentage of students tested.

(2) Comparison of charter school student assessment data.

(a) Department of Education duties. Annually, following the release of school grades, the Department of Education shall provide district-level performance data for traditional public school students and state-level performance data for charter school students. The Department shall also provide state-level performance data for students in alternative public (non-charter) schools in the state. This data shall be provided in the grade groupings 3-5, 6-8, and 9-11, and posted on the Department's school grades website at <http://schoolgrades.fldoe.org>, in a downloadable, Excel file format. The data for any component where the number of students is less than ten (10) shall be suppressed. The Department shall notify applicable charter schools that the performance data is available within ten (10) days of its posting.

(b) Charter school duties.

1. A traditional charter school shall provide data comparing the charter school's performance to state-level and district-level performance. Such data shall be posted in a prominent place at the charter school's physical location, and shall include data from the charter school's School Accountability Report, compared to state-level performance data for all charter school students and the district-level student performance data for traditional public schools in the district where the charter school is located. If the charter school maintains a website, the comparison data shall also be posted in a prominent place on the website. The information must remain posted throughout the school year following the availability of the data.

2. An alternative charter school shall provide data comparing the charter school's performance to state-level student performance. Such data shall be posted in a prominent place at the charter school's physical location, and shall include data from the charter school's School Accountability



Report, compared to state-level student performance data for all alternative charter schools in the state. If the alternative charter school maintains a website, the comparison data shall also be posted in a prominent place on the website. The information must remain posted throughout the school year following the availability of the data.

Rulemaking Authority 1002.33(21), (26) FS. Law Implemented 1002.33(21) FS. History—New \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE:  
Michael Kooi, Executive Director, Office of Independent Education and Parental Choice

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Dr. Eric Smith, Commissioner, Department of Education

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: February 1, 2010

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: July 10, 2009

**DEPARTMENT OF EDUCATION**

**State Board of Education**

RULE NOS.:	RULE TITLES:
6A-6.03012	Exceptional Student Education Eligibility for Students with Speech Impairments and Qualifications and Responsibilities for the Speech-Language Pathologists Providing Speech Services
6A-6.030121	Exceptional Student Education Eligibility for Students with Language Impairments and Qualifications and Responsibilities for the Speech-Language Pathologists Providing Language Services

PURPOSE AND EFFECT: The purpose of the rule amendment to Rule 6A-6.03012, F.A.C., is to reflect current knowledge and best practices in the fields of special education and communication disorders regarding speech impairments. Rule 6A-6.03012, F.A.C., currently addresses both speech and language impairments. The purpose of new Rule 6A-6.030121, F.A.C., is to establish evaluation procedures and eligibility criteria with regard to students with language impairments.

SUMMARY: These rules establish required procedures with regard to determining whether a student is an eligible student with a disability with a speech or language impairment. The content of the rules addresses evaluation procedures, eligibility criteria, the role of the speech-language pathologist, and the credentials required for speech-language pathologists relative to provision of language therapy.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: No Statement of Estimated Regulatory Cost was prepared.

Any person who wishes to provide information regarding a statement of estimated regulatory costs, or provide a proposal for a lower cost regulatory alternative must do so in writing within 21 days of this notice.

RULEMAKING AUTHORITY: 1003.01(3), 1003.57, 1003.571, 1012.44 FS.

LAW IMPLEMENTED: 1003.01(3), 1003.57, 1003.571, 1012.44 FS.

A HEARING WILL BE HELD AT THE DATE, TIME AND PLACE SHOWN BELOW:

DATE AND TIME: March 16, 2010, 9:00 a.m.

PLACE: Tallahassee Community College, 444 Appleyard Drive, Building 38, Room 105, Tallahassee, Florida

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Bambi Lockman, Chief, Bureau of Exceptional Education and Student Services, Division of Public Schools, 325 West Gaines Street, Suite 614, Tallahassee, FL 32399; (850)245-0475

THE FULL TEXT OF THE PROPOSED RULE IS:

(Substantial rewording of Rule 6A-6.03012 follows. See Florida Administrative Code for present text.)

6A-6.03012 Exceptional Student Education Eligibility for Students with Speech Impairments and Qualifications and Responsibilities for the Speech-Language Pathologists Providing Speech Services Special Programs for Students who Are Speech and Language Impaired.

(1) Speech impairments are disorders of speech sounds, fluency, or voice that interfere with communication, adversely affect performance and/or functioning in the educational environment, and result in the need for exceptional student education.

(a) Speech sound disorder. A speech sound disorder is a phonological or articulation disorder that is evidenced by the atypical production of speech sounds characterized by substitutions, distortions, additions, or omissions that interfere with intelligibility. A speech sound disorder is not primarily the result of factors related to chronological age, gender, culture, ethnicity, or limited English proficiency.

1. Phonological disorder. A phonological disorder is an impairment in the system of phonemes and phoneme patterns within the context of spoken language.

2. Articulation disorder. An articulation disorder is characterized by difficulty in the articulation of speech sounds that may be due to a motoric or structural problem.

(b) Fluency disorder. A fluency disorder is characterized by deviations in continuity, smoothness, rhythm, or effort in spoken communication. It may be accompanied by excessive tension and secondary behaviors, such as struggle and avoidance. A fluency disorder is not primarily the result of factors related to chronological age, gender, culture, ethnicity, or limited English proficiency.

(c) Voice disorder. A voice disorder is characterized by the atypical production or absence of vocal quality, pitch, loudness, resonance, or duration of phonation that is not primarily the result of factors related to chronological age, gender, culture, ethnicity, or limited English proficiency.

(2) General education procedures and activities. Prior to referral for evaluation, the requirements in subsection 6A-6.0331(1), F.A.C., related to general education procedures for kindergarten through grade twelve students, or subsection 6A-6.0331(2), F.A.C., related to procedures prior to initial evaluation for prekindergarten children, must be met.

(3) Procedures for the evaluation of a speech sound disorder. In addition to the procedures identified in subsection 6A-6.0331(5), F.A.C., the evaluation shall include all of the following:

(a) Information must be gathered from the student's parent(s) or guardian(s) and teacher(s), and when appropriate, the student, regarding the concerns and description of speech characteristics. This may be completed through a variety of methods including interviews, checklists, or questionnaires;

(b) Documented and dated observation(s) of the student's speech characteristics must be conducted by a speech-language pathologist to examine the student's speech characteristics during connected speech or conversation. Observation(s) conducted prior to obtaining consent for evaluation may be used to meet this criterion;

(c) An examination of the oral mechanism structure and function must be conducted; and,

(d) One or more standardized, norm-referenced instruments designed to measure speech sound production must be administered to determine the type and severity of the speech sound errors and whether the errors are articulation (phonetic) or phonological (phonemic) in nature.

(4) Procedures for the evaluation of a fluency disorder. In addition to the procedures identified in subsection 6A-6.0331(5), F.A.C., the evaluation shall include all of the following:

(a) Information must be gathered from the student's parent(s) or guardian(s) and teacher(s), and when appropriate, the student, to address the areas identified in paragraph (4)(d) of this rule. This may be completed through a variety of methods including interviews, checklists, or questionnaires;

(b) A minimum of two (2) documented and dated observations of the student's speech and secondary behaviors must be conducted by a speech-language pathologist in more than one setting, including the typical learning environment. For prekindergarten children, the observations may occur in an environment or situation appropriate for a child of that chronological age. Observations conducted prior to obtaining consent for evaluation may be used to meet this criterion, if the activities address the areas identified in paragraph (4)(d) of this rule;

(c) An examination of the oral mechanism structure and function must be conducted;

(d) An assessment of all of the following areas:

1. Motor aspects of the speech behaviors;

2. Student's attitude regarding the speech behaviors;

3. Social impact of the speech behaviors; and,

4. Educational impact of the speech behaviors; and,

(e) A speech sample of a minimum of 300-500 words must be collected and analyzed to determine frequency, duration, and type of dysfluent speech behaviors. If the speech-language pathologist is unable to obtain a speech sample of a minimum of 300-500 words, a smaller sample may be collected and analyzed. The evaluation report must document the rationale for collection and analysis of a smaller sample, the results obtained, and the basis for recommendations.

(5) Procedures for the evaluation of a voice disorder. In addition to the procedures identified in subsection 6A-6.0331(5), F.A.C., the evaluation shall include all of the following:

(a) Information must be gathered from the student's parent(s) or guardian(s) and teacher(s), and when appropriate, the student, regarding the concerns and description of voice characteristics. This may be completed through a variety of methods including interviews, checklists, or questionnaires;

(b) Documented and dated observation(s) of the student's voice characteristics must be conducted by a speech-language pathologist in one or more setting(s), which must include the typical learning environment. For prekindergarten children, the observation(s) may occur in an environment or situation appropriate for a child of that chronological age. Observation(s) conducted prior to obtaining consent for evaluation may be used to meet this criterion;

(c) An examination of the oral mechanism structure and function must be conducted; and,

(d) A report of a medical examination of laryngeal structure and function conducted by a physician licensed in Florida in accordance with Section 458 or 459, Florida Statutes, unless a report of medical examination from a physician licensed in another state is permitted in accordance with paragraph 6A-6.0331(3)(c), F.A.C. The physician's report must provide a description of the state of the vocal mechanism and any medical implications for therapeutic intervention.

(6) Criteria for eligibility. A student is eligible as a student with a speech impairment in need of exceptional student education if the student meets the following criteria for one or more of the following disorders as determined by the procedures prescribed in this rule and subsection 6A-6.0331(6), F.A.C.

(a) Speech sound disorder. A student with a speech sound disorder is eligible for exceptional student education if there is evidence, based on evaluation results, of a significant phonological or articulation disorder that is characterized by

the atypical production of speech sound(s). The atypical production of speech sound(s) may be characterized by substitutions, distortions, additions, or omissions. Evaluation results must reveal all of the following:

1. The speech sound disorder must have a significant impact on the student's intelligibility, although the student may be intelligible to familiar listeners or within known contexts;

2. The student's phonetic or phonological inventory must be significantly below that expected for his or her chronological age or developmental level based on normative data;

3. The speech sound disorder must have an adverse effect on the student's ability to perform and/or function in the student's typical learning environment, thereby demonstrating the need for exceptional student education; and,

4. The speech sound disorder is not primarily the result of factors related to chronological age, gender, culture, ethnicity, or limited English proficiency.

(b) Fluency disorder. A student with a fluency disorder is eligible for exceptional student education if there is evidence, based on evaluation results, of significant and persistent interruptions in the rhythm or rate of speech. Evaluation results must reveal all of the following:

1. The student must exhibit significant and persistent dysfluent speech behaviors. The dysfluency may include repetition of phrases, whole words, syllables and phonemes, prolongations, blocks, and circumlocutions. Additionally, secondary behaviors, such as struggle and avoidance, may be present;

2. The fluency disorder must have an adverse effect on the student's ability to perform and/or function in the educational environment, thereby demonstrating the need for exceptional student education; and,

3. The dysfluency is not primarily the result of factors related to chronological age, gender, culture, ethnicity, or limited English proficiency.

(c) Voice disorder. A student with a voice disorder is eligible for exceptional student education if there is evidence, based on evaluation results, of significant and persistent atypical voice characteristics. Evaluation results must reveal all of the following:

1. The student must exhibit significant and persistent atypical production of quality, pitch, loudness, resonance, or duration of phonation. The atypical voice characteristics may include inappropriate range, inflection, loudness, excessive nasality, breathiness, hoarseness, or harshness;

2. The voice disorder does not refer to vocal disorders that are found to be the direct result or symptom of a medical condition unless the disorder adversely affects the student's ability to perform and/or function in the educational environment and is amenable to improvement with therapeutic intervention;

3. The voice disorder must have an adverse effect on the student's ability to perform and/or function in the educational environment, thereby demonstrating the need for exceptional student education; and,

4. The atypical voice characteristics are not primarily the result of factors related to chronological age, gender, culture, ethnicity, or limited English proficiency.

(7) Speech services.

(a) A group of qualified professionals determining eligibility under requirements of this rule and subsection 6A-6.0331(6), F.A.C., must include a speech-language pathologist.

(b) A speech-language pathologist shall be involved in the development of the individual educational plan for students eligible for speech services, whether as special education or as a related service for an otherwise eligible student with a disability.

(c) Speech therapy services shall be provided by a certified speech-language pathologist pursuant to Rule 6A-4.0176, F.A.C., or a licensed speech-language pathologist pursuant to Section 468.1185, Florida Statutes, or a speech-language associate pursuant to Rule 6A-4.01761, F.A.C.

(d) Speech-language associate.

1. Speech therapy services provided by a speech-language associate as specified in Rule 6A-4.01761, F.A.C., must be under the direction of a certified or licensed speech-language pathologist with a master's degree or higher in speech-language pathology. Services can be provided for a period of three (3) years as described in Section 1012.44, Florida Statutes, in districts that qualify for the sparsity supplement as described in Section 1011.62(7), Florida Statutes.

2. Districts shall submit a plan to the Department of Education for approval before implementation of Rule 6A-4.01761, F.A.C. The components of the plan must include a description of:

a. The model, specifying the type and amount of direction including direct observation, support, training, and instruction;

b. The rationale for using this model;

c. The manner in which the associate will be required to demonstrate competency;

d. The process for monitoring the quality of services;

e. The process for measuring student progress; and,

f. The manner in which the speech-language associate will meet the requirements of the annual district professional development plan for instructional personnel.

(8) This rule shall become effective on July 1, 2010.

Rulemaking Specific Authority 1003.01, 1003.57, 1003.571 +012.44, 1012.55, 1012.56 FS. Law Implemented 1001.42(1) 1003.01, 1003.57, 1003.571, 1012.44 +012.55 FS. History--New 7-1-77, Amended 7-13-83, Formerly 6A-6.3012, Amended 8-1-88, 9-17-01, \_\_\_\_\_.

6A-6.030121 Exceptional Student Education Eligibility for Students with Language Impairments and Qualifications and Responsibilities for the Speech-Language Pathologists Providing Language Services.

(1) Language impairments are disorders of language that interfere with communication, adversely affect performance and/or functioning in the student's typical learning environment, and result in the need for exceptional student education.

(a) A language impairment is defined as a disorder in one or more of the basic learning processes involved in understanding or in using spoken or written language. These include:

1. Phonology. Phonology is defined as the sound systems of a language and the linguistic conventions of a language that guide the sound selection and sound combinations used to convey meaning;

2. Morphology. Morphology is defined as the system that governs the internal structure of words and the construction of word forms;

3. Syntax. Syntax is defined as the system governing the order and combination of words to form sentences, and the relationships among the elements within a sentence;

4. Semantics. Semantics is defined as the system that governs the meanings of words and sentences; and,

5. Pragmatics. Pragmatics is defined as the system that combines language components in functional and socially appropriate communication.

(b) The language impairment may manifest in significant difficulties affecting listening comprehension, oral expression, social interaction, reading, writing, or spelling. A language impairment is not primarily the result of factors related to chronological age, gender, culture, ethnicity, or limited English proficiency.

(2) Procedures prior to initial evaluation for prekindergarten children. Prior to initial evaluation, the requirements of subsection 6A-6.0331(2), F.A.C., must be met.

(3) Evaluation procedures for children in prekindergarten. In addition to the procedures identified in subsection 6A-6.0331(5), F.A.C., the minimum evaluation for a prekindergarten child shall include all of the following:

(a) Information gathered from the child's parent(s) or guardian(s) and others as appropriate, such as teacher(s), service providers, and caregivers regarding the concerns and description of language skills. This may be completed through a variety of methods including interviews, checklists, or questionnaires;

(b) One or more documented and dated observation(s) of the child's language skills must be conducted by the speech-language pathologist in one or more setting(s), which must include the child's typical learning environment or an environment or situation appropriate for a child of that chronological age; and,

(c) Administration of one or more standardized norm-referenced instruments designed to measure language skills. The instrument must be administered and interpreted by a speech-language pathologist to determine the nature and severity of the language deficits. If the speech-language pathologist is unable to administer a norm-referenced instrument, a scientific, research-based alternative instrument may be used. The evaluation report must document the evaluation procedures used, including the rationale for use of an alternative instrument, the results obtained, and the basis for recommendations.

(4) Criteria for eligibility for prekindergarten children. A prekindergarten child is eligible as a student with a language impairment in need of exceptional student education if all of the following criteria are met:

(a) There is evidence, based on evaluation results, of significant deficits in language. The impairment may manifest in significant difficulties affecting one or more of the following areas:

1. Listening comprehension;

2. Oral expression;

3. Social interaction; or

4. Emergent literacy skills (e.g., vocabulary development, phonological awareness, narrative concepts).

(b) One or more documented and dated behavioral observation(s) reveals significant language deficits that interfere with performance and/or functioning in the typical learning environment;

(c) Results of standardized norm-referenced instrument(s) reveal a significant language deficit in one or more of the areas listed in paragraph (1)(a) of this rule, as evidenced by standard score(s) significantly below the mean. If the evaluator is unable to administer a norm-referenced instrument and an alternative scientific, research-based instrument is administered, the instrument must reveal a significant language deficit in one or more areas listed in paragraph (1)(a) of this rule. Significance of the deficit(s) must be determined and based on specifications in the manual of the instrument(s) utilized for evaluation purposes;

(d) Information gathered from the child's parent(s) or guardian(s), teacher(s), service providers, or caregivers must support the results of the standardized instruments and observations conducted;

(e) The language impairment must have an adverse effect on the child's ability to perform and/or function in the typical learning environment, thereby demonstrating the need for exceptional student education; and,

(f) The language impairment is not primarily the result of factors related to chronological age, gender, culture, ethnicity, or limited English proficiency.

(5) General education intervention procedures and activities for students in kindergarten through grade twelve. Prior to obtaining consent for initial evaluation, the

requirements of subsection 6A-6.0331(1), F.A.C., related to general education procedures for kindergarten through grade twelve students, must be met.

(6) Evaluation procedures for students in kindergarten through grade twelve.

(a) The school district must promptly request parental or guardian consent to conduct an evaluation to determine if the student needs exceptional student education in the following circumstances:

1. Prior to obtaining consent for evaluation, the student has not made adequate progress after an appropriate period of time when provided appropriate instruction and intense, individualized interventions; or

2. Prior to obtaining consent for evaluation, intensive interventions are demonstrated to be effective but require sustained and substantial effort that may include the provision of exceptional student education; and

3. Whenever a referral is made to conduct an evaluation to determine the student's need for exceptional student education and the existence of a disability.

(b) To ensure that the decreased performance and/or functioning of a student suspected of having a language impairment is not due to lack of appropriate instruction, the minimum evaluation procedures must include all of the following:

1. Review of data that demonstrate the student was provided well-delivered scientific, research-based instruction and interventions addressing the identified area(s) of concern and delivered by qualified personnel in general or exceptional education settings;

2. Data-based documentation, which was provided to the student's parent(s) or guardian(s), of repeated measures of performance and/or functioning at reasonable intervals, communicated in an understandable format, reflecting the student's response to intervention during instruction;

3. Information gathered from the student's parent(s) or guardian(s) and teacher(s), and when appropriate, the student, regarding the concerns and a description of language skills. This may be completed through a variety of methods including interviews, checklists, or questionnaires;

4. Documented and dated observation(s) of the student's language skills must be conducted by the speech-language pathologist in one or more setting(s); and,

5. Administration of one or more standardized norm-referenced instrument(s) designed to measure language skills. The instrument(s) must be administered and interpreted by a speech-language pathologist to determine the nature and severity of the language deficits. If the speech-language pathologist is unable to administer a norm-referenced instrument, a scientific, research-based alternative instrument may be used. The evaluation report must document the

evaluation procedures used, including the rationale for use of an alternative instrument, the results obtained, and the basis for recommendations.

(c) With the exception of the observation required by subparagraph (7)(c)4. of this rule, general education activities and interventions conducted prior to initial evaluation in accordance with subsection 6A-6.0331(1), F.A.C., may be used to satisfy the requirements of paragraph (6)(b) of this rule.

(7) Criteria for eligibility for students in kindergarten through grade twelve. A student meets the eligibility criteria as a student with a language impairment in need of exceptional student education if all of the following criteria are met:

(a) Due to deficits in the student's language skills, the student does not perform and/or function adequately for the student's chronological age or to meet grade-level standards as adopted in Rule 6A-1.09401, F.A.C., in one or more of the following areas, when provided with learning experiences and instruction appropriate for the student's chronological age or grade:

1. Oral expression;

2. Listening comprehension;

3. Social interaction;

4. Written expression;

5. Phonological processing; or,

6. Reading comprehension.

(b) Due to deficits in the student's language skills, the student does not make sufficient progress to meet chronological age or State-approved grade-level standards pursuant to Rule 6A-1.09401, F.A.C., in one or more of the areas identified in paragraph (7)(a) of this rule when using a process based on the student's response to scientific, research-based intervention;

(c) Evidence of a language impairment is documented based on a comprehensive language evaluation, including all evaluation components as specified in paragraph (6)(b) of this rule. There must be documentation of all of the following:

1. Documented and dated observations show evidence of significant language deficits that interfere with the student's performance and/or functioning in the educational environment;

2. Results of standardized norm-referenced instrument(s) indicate a significant language deficit in one or more of the areas listed in paragraph (1)(a) of this rule, as evidenced by standard score(s) significantly below the mean. If the evaluator is unable to administer a norm-referenced instrument and an alternative scientific, research-based instrument is administered, the instrument must reveal a significant language deficit in one or more areas listed in paragraph (1)(a) of this rule. Significance of the deficit(s) must be determined and based on specifications in the manual of the instrument(s) utilized for evaluation purposes;

3. Information gathered from the student's parent(s) or guardian(s), teacher(s), and when appropriate, the student, must support the results of the standardized instruments and observations conducted; and,

4. At least one additional observation conducted by the speech-language pathologist when the language impairment is due to a deficit in pragmatic language and cannot be verified by the use of standardized instrument(s). The language impairment may be established through the results of subparagraphs (6)(b)3. and 4. of this rule and the additional observation(s) conducted subsequent to obtaining consent for evaluation as part of a comprehensive language evaluation. The evaluation report must document the evaluation procedures used, including the group's rationale for overriding results from standardized instruments, the results obtained, and the basis for recommendations. The information gathered from the student's parent(s) or guardian(s), teacher(s), and when appropriate, the student, must support the results of the observation(s) conducted; and,

(d) The group determines that its findings under paragraph (7)(a) of this rule are not primarily the result of factors related to chronological age, gender, culture, ethnicity, or limited English proficiency.

(8) Documentation of determination of eligibility. For a student suspected of having a language impairment, the documentation of the determination of eligibility must include a written summary of the group's analysis of the data that incorporates all of the following information:

(a) The basis for making the determination, including an assurance that the determination has been made in accordance with subsection 6A-6.0331(6), F.A.C.;

(b) Noted behavior during the observation of the student and the relationship of that behavior to the student's academic functioning;

(c) The educationally relevant medical findings, if any;

(d) Whether the student has a language impairment as evidenced by response to intervention data confirming the following:

1. Performance and/or functioning discrepancies. The student displays significant discrepancies, for the chronological age or grade level in which the student is enrolled, based on multiple sources of data when compared to multiple groups, including to the extent practicable the peer subgroup, classroom, school, district, and state level comparison groups; and,

2. Rate of progress. When provided with effective implementation of appropriate research-based instruction and interventions of reasonable intensity and duration with evidence of implementation fidelity, the student's rate of progress is insufficient or requires sustained and substantial effort to close the gap with typical peers or expectations for the chronological age or grade level in which the student is currently enrolled; and,

3. Educational need. The student continues to demonstrate the need for interventions that significantly differ in intensity and duration from what can be provided solely through educational resources and services currently in place, thereby demonstrating a need for exceptional student education due to the adverse effect of the language impairment on the student's ability to perform and/or function in the educational environment.

(e) The determination of the student's parent(s) or guardian(s) and group of qualified professionals concerning the effects of chronological age, culture, gender, ethnicity, patterns of irregular attendance, or limited English proficiency on the student's performance and/or functioning; and,

(f) Documentation based on data derived from a process that assesses the student's response to well-delivered scientific, research-based instruction and interventions including:

1. Documentation of the specific instructional interventions used, the intervention support provided to the individuals implementing interventions, adherence to the critical elements of the intervention design and delivery methods, the duration of intervention implementation (e.g., number of weeks, minutes per week, sessions per week), and the student-centered data collected; and,

2. Documentation that the student's parent(s) or guardian(s) were notified about the state's policies regarding the amount and nature of student performance and/or functioning data that would be collected and the educational resources and services that would be provided; interventions for increasing the student's rate of progress; and the parental or guardian right to request an evaluation.

(9) Language services.

(a) A group of qualified professionals determining eligibility under requirements of this rule and subsection 6A-6.0331(6), F.A.C., must include a speech-language pathologist.

(b) A speech-language pathologist shall be involved in the development of the individual educational plan for students eligible for language services, whether as special education or as a related service for an otherwise eligible student with a disability.

(c) Language therapy services shall be provided by a certified speech-language pathologist pursuant to Rule 6A-4.0176, F.A.C., or a licensed speech-language pathologist pursuant to Section 468.1185, Florida Statutes, or a speech-language associate pursuant to Rule 6A-4.01761, F.A.C.

(d) Speech-language associate.

1. Language therapy services provided by a speech-language associate as specified in Rule 6A-4.01761, F.A.C., must be under the direction of a certified or licensed speech-language pathologist with a master's degree or higher in speech-language pathology. Services under this subsection can be provided for a period of three (3) years as described in

Section 1012.44, Florida Statutes, in districts that qualify for the sparsity supplement as described in Section 1011.62(7), Florida Statutes.

2. Districts shall submit a plan to the Department of Education for approval before implementation of Rule 6A-4.01761, F.A.C. The components of the plan must include a description of:

a. The model, specifying the type and amount of direction including, but not limited to, direct observation, support, training, and instruction;

b. The rationale for using this model;

c. The manner in which the associate will be required to demonstrate competency;

d. The process for monitoring the quality of services;

e. The process for measuring student progress; and,

f. The manner in which the speech-language associate will meet the requirements of the annual district professional development plan for instructional personnel.

(10) This rule will become effective on July 1, 2010.

Rulemaking Authority 1003.01(3), 1003.57, 1003.571, 1012.44 FS. Law Implemented 1003.01(3), 1003.57, 1003.571, 1012.44 FS. History—New \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE: Dr. Frances Haithcock, Chancellor, Division of Public Schools.

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Dr. Eric J. Smith, Commissioner of Education.

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: January 29, 2010

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: August 14, 2009

**DEPARTMENT OF EDUCATION**

**State Board of Education**

RULE NO.: 6A-10.044 RULE TITLE: Residency for Tuition Purposes

PURPOSE AND EFFECT: Section 1009.21, Florida Statutes, governing the determination of resident status for tuition purposes, was revised during the 2009 legislative session. The rule is recommended to be amended to be consistent with the revised statute.

SUMMARY: The proposed rule is revised to align with new statutory provisions.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: No Statement of Estimated Regulatory Cost was prepared.

Any person who wishes to provide information regarding a statement of estimated regulatory costs, or provide a proposal for a lower cost regulatory alternative must do so in writing within 21 days of this notice.

RULEMAKING AUTHORITY: 1009.21(12) FS.

LAW IMPLEMENTED: 1009.21 FS.

A HEARING WILL BE HELD AT THE DATE, TIME AND PLACE SHOWN BELOW:

DATE AND TIME: March 16, 2010, 9:00 a.m.

PLACE: Tallahassee Community College, 444 Appleyard Drive, Building 38, Room 105, Tallahassee, Florida

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Julie Alexander, Division of Florida Colleges, Department of Education, 325 West Gaines Street, Room 1532G, Tallahassee, Florida 32399-0400, (850)245-9523 or e-mail: julie.alexander@fldoe.org

THE FULL TEXT OF THE PROPOSED RULE IS:

6A-10.044 Residency for Tuition Purposes.

The purpose of this rule is to establish consistent policies for the classification of students as residents for tuition purposes in accordance with criteria set forth in Section 1009.21, Florida Statutes. ~~The determinations of classification or reclassification shall be consistent to assure that students are classified the same regardless of the institution determining the classification.~~

(1) ~~A dependent person will be one for whom fifty (50) percent or more of his or her support has been provided by another as defined by the Internal Revenue Service. An independent person will be one who provides more than fifty (50) percent of his or her own support as evidenced by the student's most recent tax return or other documentation, including, but not limited to, pay stubs or bank account statements. The classification of a student as a Florida resident for tuition purposes by an institution or entity governed by Section 1009.40, Florida Statutes, shall be recognized by other public postsecondary institutions to which the student may later seek admission, provided that student has attended the institution or entity making the classification within the last twelve (12) months and the residency is noted on the student's transcript. Once a student has been classified by an institution or entity as a resident for tuition purposes, institutions to which the student may transfer are not required to re-evaluate the classification unless inconsistent information suggests that an erroneous classification was made or the student's situation has changed.~~

(2) For Initial Determination of Residency:

(a) A person or, if that person is a dependent, his or her parent or parents must have established legal residence in Florida for at least twelve (12) consecutive months prior to his or her initial enrollment in an institution of higher education.

(b) A dependent student who attended a Florida high school for a minimum of two (2) academic years immediately preceding his or her initial enrollment in an institution of higher education and graduated from a Florida high school or earned a Florida GED within the last twelve (12) months may use their high school transcript or the GED transcript as evidence of Florida residency. At least one (1) additional

document identified in Section 1009.21(3)(c)1. or 2., Florida Statutes, must be presented evidencing parental legal residence.

(c) If a declaration of domicile, pursuant to Section 222.17, Florida Statutes, is being used as one (1) of the documents to establish residency for tuition purposes, the date that an applicant shall be deemed as establishing residency for tuition purposes shall be twelve (12) months hence from the date that the Clerk of Circuit Court notes the declaration was sworn and subscribed to them.

(3) Residency Reclassification Determination. A student who is classified as a nonresident for tuition purposes may become eligible for reclassification as a resident for tuition purposes by presenting a minimum of three (3) documents identified in Section 1009.21(3)(c)1. or 2., Florida Statutes, that convincingly demonstrate the establishment of permanent legal residence in Florida other than for the sole purpose of pursuing a postsecondary education. Documentation must demonstrate that the student or, if the student is a dependent, his or her parent, has maintained legal residence in Florida for at least twelve (12) consecutive months prior to his or her request for reclassification.

(4) The burden of providing clear and convincing documentation that justifies the institution's classification of a student as a resident for tuition purposes rests with the student or, if the student is a dependent, his or her parent. For documentation to be "clear and convincing," it must be credible, trustworthy, and sufficient to persuade the institution that the student or, if that student is a dependent, his or her parent has established legal residency in Florida that is not solely for the purpose of pursuing an education and has relinquished residency in any other state for at least twelve (12) consecutive months prior to classification. Each institution of higher education may establish submission deadlines for all documentation that will be used to determine residency for tuition purposes.

(5)(2) Non-U.S. citizens who are currently classified such as permanent residents, parolees, asylees, refugees, or other permanent status persons (e.g., conditional permanent residents and temporary residents), must present valid and eligible documentation from the U.S. Citizenship and Immigration Services (USCIS) as identified in subsections (6) and (7) of this rule. Non-U.S. citizens who have applied to and have been approved by the USCIS U.S. Bureau of Citizenship and Immigration Services with no date certain for departure shall be considered eligible to establish Florida residency for tuition purposes. Both student, and parent, if the student is a dependent, must have valid and eligible USCIS documentation. All non-U.S. citizen document categories must be valid and non-expired for the entire term in which a non-U.S. citizen is classified as a Florida resident.

(6)(3) Nonimmigrants holding one of the following visas shall be considered eligible to establish Florida residency for tuition purposes. Individuals with non-immigrant visas must

provide evidence that: (1) he or she is in an eligible visa category (and parent, if a dependent); and (2) he or she has lived in Florida for the required twelve (12) month qualifying period (or parent, if a dependent). Visa categories must be valid and non-expired for the entire term in which a nonimmigrant is classified as a Florida resident. Persons in visa categories not listed herein shall be considered ineligible to establish Florida residency for tuition purposes.

(a) Visa category A – Foreign Government Official, including members of their immediate family.

(b) Visa category E – Treaty Traders and Investors, including their spouse and children trader or investor.

(c) Visa category G – Foreign Government Officials to Representative of International Organizations, including members of their immediate family organization.

(d) Visa category H-1B – Temporary Workers worker (Specialty Occupations, Department of Defense Workers, Fashion Models, and Nurses in HPSA's), including their spouse and children performing professional nursing services or in a specialty occupation.

(e) Visa category H-4 – Only if spouse or child of alien classified H-1.

(e)(f) Visa category I – Foreign information Mmedia Representatives, including their spouse and children representative.

(f)(g) Visa category K – Fiancé(e)s Fianceé, fiancée, or a child of United States citizen(s), including their children.

(g)(h) Visa category L – Intracompany Transferees, transferee (including their spouse and children or child).

(h)(i) Visa category N – Parent or child of alien accorded special immigrant status.

(i)(j) Visa category O-1 – Workers of "Extraordinary" Abilities, including their spouse and children ability in the sciences, arts, education, business, or athletics.

(k) Visa category O-3 – Only if spouse or child of O-1 alien.

(j)(h) Visa category R – Religious workers, including their spouse and children.

(k)(m) Visa category NATO 1-7 – North Atlantic Treaty Organization Representatives and their immediate family Representatives and employees of NATO and their families.

(l) Visa category S – Alien witnesses and informants, including their spouse and children.

(m)(n) Visa category T – Victims of trafficking, who cooperate with federal authorities in prosecutions of traffickers, including and their spouses and children.

(n) Visa category U – Victims of Certain Crimes, including their spouse and children.

(o) Visa category V – Spouses and children of lawful permanent residents.

(7)(4) Non-U.S. citizens who fall within the following categories shall also be considered eligible to establish Florida residency for tuition purposes:



- (a) Citizens of Micronesia.
- (b) Citizens of the Marshall Islands.
- (c) Beneficiaries of the Family Unity Program.
- (d) Individuals granted Temporary Protected Status (TPS).
- (e) Individuals granted Withholding of Removal deportation status.
- (f) Individuals granted Ssuspension of Deportation status or Cancellation of Removal.
- (g) Individuals granted a Stay of Deportation status or Stay of Removal.
- (h) Individuals granted Deferred Action Status.
- (i) Individuals granted Deferred Enforced Departure status.
- (j) Applicants for Aadjustment of Status.
- (k) Asylum applicants with INS receipt or Immigration Court stamp.

(8) Institutions shall establish a residency appeal committee that is responsible for making final residency determinations for students who initiate an appeal according to the institution's official appeal process. The official appeal process shall be written and prominently displayed on the institution's web site.

~~(5) If a declaration of domicile, pursuant to Section 222.17, Florida Statutes, is being used as one of the documents to establish residency for tuition purposes, the date that an applicant shall be deemed as establishing residency for tuition purposes shall be twelve (12) months hence from the date that the Clerk of Circuit Court notes the declaration was sworn and subscribed to them. Nothing in this subsection shall prevent the use of additional documentation as evidence that legal residency was established by other means pursuant to Section 1009.21(1)(c), Florida Statutes, as of a date earlier than that established by the Declaration of Domicile.~~

~~(6) An applicant shall be classified at the time of initial classification as an "All Florida" resident for tuition purposes, and the institution to which the applicant is applying shall grant the applicant residency for tuition purposes, if all of the following criteria are met. If the applicant does not meet all of the criteria, he or she must be evaluated to determine residency status:~~

- ~~(a) Students requesting All Florida resident status as an independent person must meet all of the following criteria:~~
  - ~~1. The student's nation of citizenship is the United States;~~
  - ~~2. The student is twenty four (24) years of age or over;~~
  - ~~3. The student's permanent address is a Florida address;~~
  - ~~4. The high school from which the student graduated is a Florida high school;~~
  - ~~5. Every institution the student attended is located in the State of Florida; and~~

~~6. The student provides written or electronic verification that he or she has been issued two (2) of the following three (3) Florida documents that are dated more than twelve (12) months old: a voter's registration, a driver's license or a vehicle registration.~~

~~(b) Students requesting All Florida resident status as a dependent person must meet all of the following criteria:~~

- ~~1. The student is eligible to be claimed by his or her parent or legal guardian as a dependent under the federal income tax code;~~
- ~~2. The student's nation of citizenship is the United States;~~
- ~~3. The student is under twenty four (24) years of age;~~
- ~~4. The student's mother, father or legal guardian is the person claiming Florida residence;~~
- ~~5. The student's mother, father or legal guardian claiming Florida residence has a Florida permanent legal address; and~~

~~6. The student's mother, father or legal guardian claiming Florida residence provides written or electronic verification that he or she has been issued two of the following three Florida documents that are dated more than twelve (12) months old: a voter's registration, a driver's license or a vehicle registration.~~

~~(7) An applicant, who at the time of initial classification is not classified as an All Florida resident for tuition purposes, shall be further assessed by the institution to which the applicant is applying. The student shall provide clear and convincing evidence that establishes that he or she, or if a dependent, the student's mother, father, or guardian, has been a Florida resident for the preceding twelve (12) months. No single piece of documentation shall be conclusive.~~

~~(a) The documentation may include, but is not limited to, the following: driver's license, voter registration card, vehicle registration, declaration of domicile, proof of purchase of a permanent home, transcripts from a Florida school for multiple years, proof of permanent full-time employment, a Professional or Occupational License, Florida incorporation, documents evidencing family ties, proof of membership in organizations, and any other documentation that supports the student's request for resident status.~~

~~(b) Dependent or independent status will be based on a copy of a student's or his or her parents' most recent tax return or other documentation. A dependent person will be one for whom fifty (50) percent or more of his or her support has been provided by another as defined by the Internal Revenue Service. An independent person will be one who provides more than fifty (50) percent of his or her own support.~~

~~(c) An independent or dependent student who is enrolled full-time in an institution and is seeking to be re-classified as a resident for tuition purposes, must provide such documentation which substantiates that he or she, or if a dependent, the~~

student's mother, father, or guardian, is establishing Florida as his or her permanent domicile and not as a mere temporary residence incident to the enrollment in higher education.

~~(8) A student, or if a dependent, his or her father, mother or guardian, must maintain legal residence in the state of Florida for at least twelve (12) months immediately prior to the first day of classes of the term for which residency status is sought at a Florida institution. Institutions may establish submission deadlines for all documentation that will be used to determine residency for tuition purposes. The burden of providing the documentation, which justifies the classification of a student as a resident for tuition purposes, rests with the applicant.~~

~~(9) Notwithstanding the foregoing, institutions shall classify persons as residents for tuition purposes in accordance with the criteria set forth in Section 1009.21, Florida Statutes.~~

~~(10) For purposes of determining residency for tuition purposes, any reference to federal or state government shall be construed as meaning U.S. federal or Florida state government.~~

~~(11) In determining the domicile of a married person, the determination of a legally married person shall be consistent with Chapter 741, Florida Statutes.~~

~~(12) Definitions.~~

~~(a) The term "institution," as used in this rule when adopted by the Board of Governors shall mean state universities, and when adopted by the State Board of Education shall mean community colleges, with the understanding that both Boards shall coordinate and cooperate as a K-20 system.~~

~~(b) Community colleges shall mean those set forth in Section 1000.21(3), Florida Statutes.~~

~~(c) State universities shall mean those set forth in Section 1000.21(6), Florida Statutes.~~

~~(d) The term "full-time" shall mean enrollment in twelve (12) or more credits per term for undergraduate students and nine (9) or more credits per term for graduate students. Institutions may provide exceptions for students such as, dissertation students, co-op students, or students with disabilities.~~

Rulemaking Specific Authority 1009.21(11) FS. Law Implemented 1009.21(11) FS. History—New 10-6-92, Amended 10-17-00, 3-22-05, \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE: Dr. Willis Holcombe, Chancellor, Division of Florida Colleges, Department of Education

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Dr. Eric J. Smith, Commissioner of Education

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: February 2, 2010

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: January 22, 2010

**BOARD OF TRUSTEES OF THE INTERNAL IMPROVEMENT TRUST FUND**

Notices for the Board of Trustees of the Internal Improvement Trust Fund between December 28, 2001 and June 30, 2006, go to <http://www.dep.state.fl.us/> under the link or button titled "Official Notices."

**AGENCY FOR HEALTH CARE ADMINISTRATION**

**Medicaid**

<b>RULE NOS.:</b>	<b>RULE TITLES:</b>
59G-12.001	Purpose
59G-12.002	Definitions
59G-12.003	Eligibility/Enrollment
59G-12.004	Program Administration
59G-12.005	Program Forms

**PURPOSE AND EFFECT:** The purpose is to repeal Rules 59G-12.001-12.005, F.A.C., titled Ron Silver Senior Drug Program. This program is obsolete. Statutory authority for the program ended with the elimination of Section 409.9065, Florida Statutes.

**SUMMARY:** The proposed repeal of the rule eliminates obsolete rules related to a program and statutory authority that no longer exists.

**SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS:** No Statement of Estimated Regulatory Cost was prepared.

Any person who wishes to provide information regarding a statement of estimated regulatory costs, or provide a proposal for a lower cost regulatory alternative must do so in writing within 21 days of this notice.

**RULEMAKING AUTHORITY:** 409.9065(4)(b) FS.

**LAW IMPLEMENTED:** 409.906(20), 409.9065(4)(b), 409.908, 409.912 FS.

**IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE SCHEDULED AND ANNOUNCED IN THE FAW.**

**THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS:** Marie Donnelly, (850)487-4441

**THE FULL TEXT OF THE PROPOSED RULES IS:**

59G-12.001 Purpose.

Rulemaking Specific Authority 409.9065(4)(b) FS. Law Implemented 409.906(20), 409.9065(4)(b), 409.908, 409.912 FS. History—New 1-9-03, Repealed \_\_\_\_\_.

59G-12.002 Definitions.

Rulemaking Specific Authority 409.9065(4)(b) FS. Law Implemented 409.906(20), 409.9065(4)(b), 409.908, 409.912 FS. History—New 1-9-03, Repealed \_\_\_\_\_.

59G-12.003 Eligibility/Enrollment.

Rulemaking Specific Authority 409.9065(4)(b) FS. Law Implemented 409.906(20), 409.9065(4)(b), 409.908, 409.912 FS. History--New 1-9-03, Repealed.

59G-12.004 Program Administration.

Rulemaking Specific Authority 409.9065(4)(b) FS. Law Implemented 409.906(20), 409.9065(4)(b), 409.908, 409.912 FS. History--New 1-9-03, Repealed.

59G-12.005 Program Forms.

Rulemaking Specific Authority 409.9065(4)(b) FS. Law Implemented 409.906(20), 409.9065(4)(b), 409.908, 409.912 FS. History--New 1-9-03, Repealed.

NAME OF PERSON ORIGINATING PROPOSED RULE:  
Anne Wells

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Thomas W. Arnold

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: January 21, 2010

**DEPARTMENT OF MANAGEMENT SERVICES**

**Division of Facilities Management**

RULE NOS.:	RULE TITLES:
60H-1.001	Definitions
60H-1.002	Department Approval of Space Need
60H-1.003	Use of Approved Forms
60H-1.004	Filing of Leases
60H-1.006	Escalation Clauses
60H-1.007	Right-to-Terminate Clause Required
60H-1.009	Notice of Renewal
60H-1.013	Fire Code Compliance in Leased Space
60H-1.015	Procurement of Leases of 5,000 Square Feet or More
60H-1.016	Procurement of Leases of Less Than 5,000 Square Feet
60H-1.017	Turnkey Lease
60H-1.021	Department Prior Approval
60H-1.022	Department Final Approval
60H-1.023	Lease Modifications
60H-1.024	Lease Extensions
60H-1.0241	Lease Renewal
60H-1.025	Disclosure Statement
60H-1.026	Disclosure Statement – Public Officials
60H-1.0261	Change of Ownership
60H-1.027	Legal Review
60H-1.028	Information and Forms
60H-1.029	Evaluation of Responses
60H-1.0291	Filing of Leases
60H-1.030	Availability of Rate and Market Data

PURPOSE AND EFFECT: To amend existing Chapter 60H-1, Florida Administrative Code, in order to provide greater detail and explanation related to the statutory requirements for leasing of privately owned space by state agencies. This includes responding to comments from the Joint Administrative Procedures Committee (JAPC) and rule conformity with statute changes in Chapters 2007-220, 2007-73 and 2009-77, Laws of Florida.

SUMMARY: Administrative procedures for state agency’s leasing of state-owned or privately owned space will be adjusted to meet continuing and amended statutory requirements. The processes for private leasing activity by state agencies will be updated to reflect obligations for achieving “best interest of the state” leases as indicated in Section 255.25, F.S.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: The agency has determined that this rule will not have an adverse impact on small business activities. No Statement of Estimated Regulatory Costs was prepared.

Any person who wishes to provide information regarding any estimated cost impact must do so in writing within 21 days of this notice. This proposed rule change does impact state agencies requirements and procedures when leasing either public or private space.

RULEMAKING AUTHORITY: 255.249, 255.25, 255.503 FS. LAW IMPLEMENTED: 255.249, 255.21, 255.25, 255.503, 255.254, 281.02 FS.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE HELD AT THE DATE, TIME AND PLACE SHOWN BELOW (IF NOT REQUESTED, THIS HEARING WILL NOT BE HELD):

DATE AND TIME: March 8, 2010, 9:00 a.m. – 11:30 a.m.

PLACE: Betty Easley Conference Center, 4075 Esplanade Way, Building 4075, Room 152, Tallahassee, Florida 32399

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 48 days before the workshop/meeting by contacting: Anthony Andreala, 4050 Esplanade Way, Tallahassee, Florida 32399-2100, phone: (850)488-3759. If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Anthony Andreala, Chief of Real Property Administration, Division of Real Estate Development and Management, phone: (850)488-3759, Email: Anthony.Andreala@dms.myflorida.com

THE FULL TEXT OF THE PROPOSED RULES IS:

(Substantial rewrite of Rule 60H-1.001 follows. See Florida Administrative Code for present text.)

60H-1.001 Definitions.

Terms are used herein as defined in the referenced law, Section 255.248, Florida Statutes. In addition, the following terms shall also apply:

(1) “Agency” shall mean an official, officer, commission, authority, council, committee, department, division, bureau, board, section or other unit or entity of the Executive Branch of the government of the State of Florida.

(2) “Agency Lease” shall mean an agreement to lease a building or any part thereof other than a Florida Facilities Pool property as identified in Section 255.505, Florida Statutes.

(3) “Approval of Space Need” shall mean the Department’s acknowledgement that an Agency has met the requirements of Rule 60H-1.002, Florida Administrative Code and, therefore, may proceed to procure, but not execute, the associated lease.

(4) “Best Interest of the State” shall mean an efficient and economical use of state resources as determined by the Department.

(5) “Certificate of Compliance” shall mean the Department’s form with which an Agency conforms that a lease was executed in compliance with all leasing criteria as provided in Chapter 255, Florida Statutes.

(6) “Department” shall mean the Department of Management Services.

(7) “Final Approval” shall mean the Department’s acknowledgement that all applicable requirements have been met and, upon required Department signature, the associated lease is fully-executed.

(8) “Lease Action” shall mean the execution, modification, renewal, termination or cancellation of an agreement for the use of real property.

(9) “Lease Agreement” shall mean the standard lease form as defined in Rule 60H-1.003, Florida Administrative Code.

(10) “Lease Clause” shall mean a distinct article, stipulation or provision of a Lease Agreement.

(11) “Nominal Lease” shall mean any lease which results in a total of all payments made by lessee to lessor of less than \$1.00.

(12) “Prior Approval” shall mean the Department’s acknowledgement that an Agency has met the requirements of Rule 60H-1.021, Florida Administrative Code and, therefore, may proceed to execute the associated lease.

(13) “Pool Facility” shall mean a facility under the care and direction of the Department pursuant to subsection 255.505, Florida Statutes.

(14) “Program Director” shall mean the head of the Department or his or her designee.

(15) “Turnkey Lease” shall mean a lease in which a single entity is procured, through Competitive Solicitation, to perform all primary activities including, but not limited to, the financing, design, development and post-construction management of real property.

(16) “Warehouse Space” shall mean real property used primarily as storage.

Rulemaking Specific Authority 255.249, 255.25, 255.503(11) FS. Law Implemented 255.249, 255.25(2), 255.503 FS. History–New 8-11-75, Amended 8-27-75, 4-25-79, Formerly 13D-7.01, Amended 3-18-86, Formerly 13M-1.001, Amended 4-27-04,\_\_\_\_\_.

(Substantial rewrite of Rule 60H-1.002 follows. See Florida Administrative Code for present text.)

60H-1.002 ~~Department Division~~ Approval; of Space Need When Required.

(1) No Agency may proceed with the procurement, negotiation or execution of a Lease unless an Approval of Space Need has been granted by the Department.

(2) The requesting Agency shall:

(a) Submit Department Form 4105 (Request for Space Need) which clearly states:

1. The contact details for the requesting Agency; and
2. The square footage and location of the desired Lease; and
3. The intended procurement method.

(b) Submit Department Form 4100 (Space Allocation Worksheet) completed in compliance with Rule 60H-1.0021, Florida Administrative Code; and

(c) Acknowledge that no suitable State-owned space would meet the leasing needs being sought.

(3) The Department shall grant the Approval of Space Need when the required submissions, as stipulated in this subsection, are in compliance with rule and are in the Best Interest of the State.

Rulemaking Specific Authority 255.25, 255.249, 255.503(11) FS. Law Implemented 255.249(4)(b), (k), (5), 255.25(2)(b), (3)(b), (4)(a), 255.503 FS. History–New 8-11-75, Amended 4-25-79, Formerly 13D-7.02, Amended 3-18-86, Formerly 13M-1.002, Amended 2-21-96, 5-13-03,\_\_\_\_\_.

(Substantial rewrite of Rule 60H-1.003 follows. See Florida Administrative Code for present text.)

60H-1.003 ~~Use of Approved Forms Standard Lease Agreement Form.~~

(1) The Department shall publish approved forms for use by Agencies for actions under Sections 255.248, 255.249 and 255.25, Florida Statutes.

(2) Other lease terms or conditions which supplement, remove, or modify any lease term or condition of an approved form may be used only with approval from the Department.

(3) Any Agency request for changes to an approved form or for use of an alternate form shall be submitted to the Department in writing and state with reasonable particularity why the form modification or use of alternate form is necessary and in the best interest of the state. The request shall also contain the following:

(a) Verification from the agency that the best interests of the state are met with the request; and

(b) Agency's general counsel's approval that the use of the requested language is consistent with all applicable laws.

(4) Unless the Department's approval has been obtained in accordance with this rule, any such change shall be considered null and void.

Rulemaking Specific Authority 255.249(5), 255.25(2) FS. Law Implemented 255.249 (4)(b),(e), (k), 255.25(2) FS. History--New 8-11-75, Amended 4-25-79, Formerly 13D-7.03, Amended 3-18-86, Formerly 13M-1.003, Amended 9-30-96, 5-13-03, 4-27-04, 7-12-07, \_\_\_\_\_.

60H-1.004 Filing of Leases.

Rulemaking Specific Authority 255.25 FS. Law Implemented 255.25(2) FS. History--New 8-11-75, Amended 4-25-79, Formerly 13D-7.04, 13M-1.004, Repealed \_\_\_\_\_.

(Substantial rewrite of Rule 60H-1.006 follows. See Florida Administrative Code for present text.)

60H-1.006 Escalation Clauses.

No Agency's Lease shall contain an open rate, including Consumer Price Index or open rental escalation clause.

Rulemaking Specific Authority 255.25 FS. Law Implemented 255.25(2) FS. History--New 8-11-75, Amended 4-25-79, Formerly 13D-7.06, 13M-1.006, Amended 4-27-04, \_\_\_\_\_.

60H-1.007 Right-to-Terminate Clause Required.

Rulemaking Specific Authority 255.25 FS. Law Implemented 255.25(2) FS. History--New 8-11-75, Amended 4-25-79, Formerly 13D-7.07, 13M-1.007, Amended 5-13-03, 8-5-03, 4-27-04, Repealed \_\_\_\_\_.

60H-1.009 Notice of Renewal.

Rulemaking Specific Authority 255.249(2), 255.25 FS. Law Implemented 255.25(2) FS. History--New 8-11-75, Amended 4-25-79, Formerly 13D-7.09, Amended 3-18-86, Formerly 13M-1.009, Amended 2-21-96, 5-13-03, Repealed \_\_\_\_\_.

(Substantial rewrite of Rule 60H-1.013 follows. See Florida Administrative Code for present text.)

60H-1.013 Fire Code Compliance in Leased Space.

(1) Any building to be leased by a state Agency shall comply with the Uniform Fire Safety Standards of the Division of the State Fire Marshal.

(2) The Department shall withhold approval of any proposed Lease until the facility or construction or renovation plan complies with the Uniform Fire Safety Standards of the Division of the State Fire Marshal.

(3) The cost of all modification or renovations made for the purpose of bringing leased property, other than a pool facility, into compliance with uniform fire safety standards shall be borne by the lessor.

Rulemaking Specific Authority 255.249, 255.25 FS. Law Implemented 255.25(5), 281.02 FS. History--New 4-25-79, Formerly 13D-7.091, Amended 3-18-86, Formerly 13M-1.013, Amended \_\_\_\_\_.

(Substantial rewrite of Rule 60H-1.015 follows. See Florida Administrative Code for present text.)

60H-1.015 Procurement of Leases of 5,000 Square Feet or More.

(1) No Agency shall enter into a lease for 5,000 square feet or more of space in a privately owned building without procurement through Competitive Solicitation.

(2) Without regard to square footage, no agency shall enter into, within any 12-month period, more than one lease in the same privately owned facility or complex except upon procurement through Competitive Solicitation.

(3) Procurement specifications for Competitive Solicitation shall be drawn in general terms so as to allow for ample competition and to not favor any particular potential responder.

(4) Agency requirements detailed in a Competitive Solicitations shall state:

(a) Approximate Net Usable Square Feet required, consistent with Rule 60H-2.002, Florida Administrative Code; and

(b) Preliminary floor plan for use of desired space; and

(c) Geographic information sufficient to determine whether a potential property is within the Agency's desired boundaries; and

(d) Requested occupancy date; and

(e) Desired term of lease and potential for renewal options; and

(f) Date by which responses must be received; and

(g) Anticipated date for award of procurement; and

(h) Services required, including parking, dining and transportation requirements.

(5) Respondent requirements detailed in a Competitive Solicitation shall state that lessor shall:

(a) Indicate whether proposed leased space is in an Energy Star Building Rating, as determined by the United States Department of Energy; and

(b) Secure a life-cycle cost analysis pursuant to subsection 255.254(1), Florida Statutes and Rule 60D-4.007, Florida Administrative Code; and

(c) Provide monthly energy use data to the Department, pursuant to subsection 255.254(1), Florida Statutes; and

(d) Enter into a Lease approved by the Department; and

(e) Provide a scaled floor plan showing present configurations and measurements that equate to Net Usable Square Footage offered; and

(f) Comply with the requirements of Chapter 60D-1, Florida Administrative Code, Design Standards for Special Facilities for the Physically Disabled, if awarded lease; and

(g) Maintain offer, as set forth in response to Competitive Solicitation, for a minimum of thirty (30) days following the public response due date; and

(h) Comply with the Uniform Fire Safety Standards if awarded lease; and

(i) Propose a rental rate per square foot per year that will include all renovations and other special requirements necessary to accommodate the program at the time of initial occupancy; and

(j) Provide per square foot rental rates for all years of the proposed lease including renewals, if any; and

(k) Provide a general description of the space such as a room number, building name, and physical address; and

(l) Specifically address each requirement and specification; and

(m) Contain the signature of the owner(s), corporate officer(s) or legal representative(s). If authority to transact business has been granted by the owner or officer, written evidence of this authority must accompany the response; and

(n) Contain the corporate, trade or partnership name either stamped, written or typewritten beside the actual signature(s); and

(o) If ownership is considered foreign to the State of Florida a certificate of authority pursuant to Section 606.1501, Florida Statutes must accompany the response. Lessor must include proof of the lessor's authority to offer the facility, i.e., copy of lessor's option to purchase (if the lessor is not the owner or owner's representative). This option must be valid through the time period stated in the solicitation for which responses may not be withdrawn.

(6) Replacement Lease.

If the Agency determines that it is in their best interest to remain in their present location a replacement lease may be negotiated 12 to 18 months prior to lease expiration if:

(a) An independent comparative market analysis demonstrates that the rental rates of the replacement lease will be at or below the total of the market rates for a comparable lease plus moving costs; and

(b) The term does not exceed the base term of the lease being replaced; and

(c) All other leasing requirements are met.

(7) This rule shall not apply to:

(a) Department approved emergency acquisition of space under the requirements of subsection 255.25(10), Florida Statutes; or

(b) Leases for the purpose of providing care and living space for persons, provided the Agency has filed with the Department a certificate of exemption demonstrating that the lease is exempt from Competitive Solicitation under paragraph 255.249(4)(b) or 255.25(3)(b), Florida Statutes; or

(c) Leases having a term of less than 120 consecutive days for the purpose of securing a one-time special use of the leased property; or

(d) Replacement leases, as defined in subsection 255.25(3)(c), Florida Statutes.

Rulemaking Specific Authority 255.249(4) FS. Law Implemented 255.249(2)(b), (4), 255.21, 255.25(3), (5), (7), 255.254 FS. History—New 4-25-79, Amended 4-19-83, Formerly 13D-7.092, Amended 3-18-86, Formerly 13M-1.015, Amended 2-21-96, 5-13-03, 4-27-04, 7-12-07, \_\_\_\_\_.

60H-1.016 Procurement of Leases of Less Than 5,000 Square Feet.

(1) For all leases under 5,000 square feet at least three quotes documented quotes are required which must have the following information:

(a) Prospective leased premises building name, if applicable; and

(b) Property physical and mailing address; and

(c) Prospective landlord full name and business address; and

(d) Proposed Net Usable Square Feet being offered; and

(e) Proposed rate per Net Usable Square Foot for each year of the term of the lease; and

(f) Proposed term in years; and

(g) Date proposed leased space will be available; and

(h) Proposed tenant improvement amount to be offered; and

(i) Proposed landlord's agent or representative, if applicable; and

(j) Whether the proposed facility is an "Energy Star" qualified facility as defined by the United States Environmental Protection Agency and the United States Department of Energy.

(2) Upon receipt of documented quotes as stipulated in this subsection, the Agency shall complete Department Form 4137A (Quote Synopsis) summarizing the quotes received and submit to the Department for review.

(3) Without regard to square footage, no Agency shall enter into, within any 12-month period, more than one lease in the same privately owned facility or complex except upon procurement through Competitive Solicitation.

Rulemaking Authority 255.249(4) FS. Law Implemented 255.249(2), (4), 255.25(2)(b), (8) FS. History—New \_\_\_\_\_.

(Substantial rewrite of Rule 60H-1.017 follows. See Florida Administrative Code for present text.)

60H-1.017 Turnkey (Lease) Construction Program.

(1) The Department shall have the authority to approve a lease under this rule when the following conditions have been met:

(a) An appropriate procurement has been attempted and no suitable space has been identified; and

(b) Approval of Space Need has been obtained, in accordance with Rule 60H-1.002, Florida Administrative Code; and

(c) Department has been notified, in writing, of the Agency's intent to seek a Turnkey Lease as defined in Rule 60H-1.001, Florida Administrative Code.

(2) The Agency shall prepare the following:

1. Performance specifications; and

2. Optimum Site and Building Requirements; and

3. Unique Planning Information; and

4. Lease Agreement; and

5. Intended User's program.

(3) The Agency shall advertise, setting forth means by which building specifications may be obtained.

(4) The Agency shall advise respondents that no State payments for use of space being developed will be made prior to final acceptance and approval of the completed building and its site, in accordance with the terms and conditions set forth in the Department's Standard Lease Agreement form.

(a) The Agency will advise that if a Developer is interested in developing a structure for the purpose indicated and in leasing the building and its site to the State of Florida, the Developer should submit his best response or responses by (Time), (Date), to the (Department), (Location or Street Address), (City), (State).

(b) The Agency will set the response period depending upon the complexity of the needed facility. The Developer's requirements as requested by the Agency and the Department:

1. Agreement to enter into a lease-build contract on the Department's Standard Lease Agreement form setting forth the terms and conditions therein.

2. Intent to furnish 100% Performance Bond if response is accepted.

a. Complete and satisfactory evidence of ownership;

b. Local tax assessor's appraisal of the site;

c. A site survey; and

d. The Developer's estimated valuation cost of construction \$ per square foot, for gross square feet, and provide a statement of rental rate per square foot, including necessary maintenance and operations costs.

3. Completion date (the date that the building will be offered to the State for acceptance), contingent upon Developer's Authorization to Proceed.

4. Developers shall indicate the period of time that a response will remain open; such period shall be a minimum of sixty 60 days.

5. Site improvement information shall include the following:

a. Grading outside buildings;

b. Sanitary and storm sewers;

c. Landscaping;

d. Paving and retaining walls;

e. Water;

f. Gas and electric distribution systems; and

g. Extraordinary excavation and/or foundations.

6. Life Cycle Cost Analysis pursuant to Section 255.255, Florida Statutes. See Rule 60H-4.004, Florida Administrative Code for requirements.

7. Building information which will enable the Department to review both the functional and aesthetic aspects of the building including:

a. Floor plans showing proposed utility core, office space, public space, corridors and parking areas (scale 1" equals 8').

b. Elevations and cross sections of buildings indicating exterior material and colors (scale 1" equals 8').

8. A response submitted by a Developer shall be signed by the Developer or his or her duly authorized representative. Corporate, trade, or partnership titles may be stamped, written or type-written, but the actual signature of the authorized representative must appear on the response. If the response is signed by a Developer's agent, the agent must demonstrate authority to sign and it shall accompany the response. Evaluation of responses will be made by the Agency on the basis of price, design, characteristics of construction, completion date, location (including environment or characteristics of surrounding neighborhood), public transportation availability, availability of parking facilities, availability of satisfactory dining facilities, and conformance to the Agency program, performance specifications, and floor layout plan. The Agency then presents the entire "project review package" to the Department.

9. The project review package shall contain:

a. A letter of transmittal setting forth:

(i) The fact that "this is a lease-build response," and

(ii) Functional and staff justification as to the facility's necessity.

b. Proof of Advertisement.

c. A list of the responses to the advertisements.

d. Set of the Agency's program, any unique planning information, performance specifications (building and site), site description and/or delineated area, floor layout plan, and property appraisal.

10. All responses submitted to the Agency must be in accordance with guidelines developed.

11. Agency's recommendation with justification. The Department will review the project. If it concurs with the Agency's recommendation, it will give approval and return to the User Agency for execution. The Agency and the Department must be in joint agreement on the response before approval is granted.

12. A physical inspection of completed buildings and sites will be made by the various Agencies who will, in turn, supply the Division of Facilities Management with a certificate of acceptance, and a certificate citing the date of occupancy.

Rulemaking Specific Authority 255.249, 255.25 FS. Law Implemented 255.25(1), (2)(a) FS. History--New 8-11-75, Formerly 13D-7.10, Amended 3-18-86, Formerly 13M-1.017, Amended 2-21-96, 4-27-04, 7-12-07, \_\_\_\_\_.

#### 60H-1.021 Department Prior Approval.

(1) No Agency may proceed with the execution of a Lease Action unless the Department has granted Prior Approval for the Lease Action.

(2) For Leases of less than 5,000 feet, the requesting Agency shall submit:

(a) An unexecuted Lease Agreement pursuant to Rule 60H-1.003, Florida Administrative Code; and

(b) A minimum of three documented quotes; and

(c) A completed Department Form 4113 (Certificate of Compliance); and

(d) A completed Department Form 4137A (Quote Synopsis).

(3) For Leases of 5,000 square feet or greater, the requesting Agency shall submit:

(a) An unexecuted Lease Agreement pursuant to Rule 60H-1.003, Florida Administrative Code; and

(b) A copy of procurement documents issued for the Competitive Solicitation; and

(c) A copy of all responses to the Competitive Solicitation; and

(d) A completed Department Form 4137 (Bid Synopsis); and

(e) Scaled drawings in hardcopy or electronic format; and

(f) The Sustainable Building Rating as obtained from the United States Department of Energy; and

(g) The completed Energy Performance Analysis.

(4) The Department shall grant Prior Approval when the required submissions, as stipulated in this subsection, are in the Best Interest of the State.

Rulemaking Authority 255.249(4) FS. Law Implemented 255.249(4)(b), (k), 255.25(2)(b) FS. History--New \_\_\_\_\_.

(Substantial rewrite of Rule 60H-1.022 follows. See Florida Administrative Code for present text.)

60H-1.022 Department Final Prior Approval of Space Need.

(1) No Lease shall become fully executed until the Department has granted Final Approval for the Lease Action.

(2) The requesting Agency shall submit:

(a) All lease documents fully-executed by both the Agency and the lessor, consistent with Chapter 60H-1, Florida Administrative Code; and

(b) Approval from the State Fire Marshal; and

(c) Department Form 4114 (Disclosure Statement)

(3) The Department shall grant Final Approval when the required submissions, as stipulated in this subsection, are in the Best Interest of the State.

Rulemaking Specific Authority 255.249, 255.25 FS. Law Implemented 255.25(2)(b), (3), (4), (5) FS. History--New 3-18-86, Formerly 13M-1.022, Amended 2-21-96, 5-13-03, 4-27-04, 7-12-07, \_\_\_\_\_.

#### 60H-1.023 Lease Modifications.

(1) An Agency wishing to execute a Lease modification shall obtain the Department's Approval of Space Need, Prior Approval and Final Approval.

(2) An Agency may enter into a modification of a lease to increase the square footage by no more than 4,999 square feet if the modification is upon the same terms and conditions of the approved lease.

(3) An Agency may enter into, within any 12-month period, more than one modification to increase the square footage, provided the total space acquired by modification within the 12-month period is less than 5,000 square feet.

Rulemaking Authority 255.249(4) FS. Law Implemented 255.249(4)(b), 255.25(1)(b), (3)(c) FS. History--New \_\_\_\_\_.

#### 60H-1.024 Lease Extensions.

(1) An Agency wishing to execute a Lease extension shall obtain the Department's Approval of Space Need, Prior Approval and Final Approval.

(2) The leasing rules applicable to each Lease are determined at the time of initial execution of the original Lease Agreement.

(3) The Department will approve extensions of an existing Lease if such extensions are determined by the Department to be in the Best Interest of the State.

(4) All Agency requests for an extension under this clause shall be submitted in writing to the Department no less than sixty (60) days before a lease is to end. The agency shall furnish a statement of justification for the extension.

(5) The Department shall review the request and issue a written decision.



Rulemaking Authority 255.249(4) FS. Law Implemented 255.249(4)(b), 255.25(1)(b), (3)(c) FS. History–New \_\_\_\_\_.

60H-1.0241 Lease Renewals.

(1) An Agency wishing to execute a Lease renewal shall obtain the Department’s Approval of Space Need, Prior Approval and Final Approval.

(2) A copy of the notice of renewal, with proof of the date the notice was received by the lessor clearly marked thereon, shall be furnished to the Department.

(3) The Agency shall submit a Form FM 4113 (Certificate of Compliance).

Rulemaking Authority 255.249(2), 255.25 FS. Law Implemented 255.25(2) FS. History–New \_\_\_\_\_.

(Substantial rewrite of Rule 60H-1.025 follows. See Florida Administrative Code for present text.)

60H-1.025 Disclosure Statements –Private Entities.

(1) Pursuant to Sections 255.249(4)(h) and 255.249(4)(j), Florida Statutes, no Lease Action shall be approved unless the Agency has submitted Form Number 4114 (Disclosure Statement) completed in full compliance with the law.

(2) Each subsequent Lease Action for which a Disclosure Statement has been required may be accompanied by a lessor’s affidavit, Form Number 4114A (Disclosure Update), that the previous Disclosure Statement submitted on (date to be provided) is still valid, if no change in the interest held or individuals concerned has occurred.

(3) It is not necessary to make disclosure under subsections (1) and (2) of any beneficial interest which is represented by stock in any corporation registered with the Securities and Exchange Commission or registered pursuant to Chapter 517, Florida Statutes, which stock is for sale to the general public. A statement certifying the registration shall be provided the Department.

(4) It is not necessary to make disclosure under subsections (1) and (2) of any leasehold interest in property located outside the territorial boundaries of the United States.

Rulemaking Specific Authority 255.249(4) FS. Law Implemented 255.249(4)(h) FS. History–New 4-5-76, Amended 4-25-79, Formerly 13D-7.15, 13M-1.025, Amended \_\_\_\_\_.

60H-1.026 Disclosure Statement – Public Officials.

Rulemaking Specific Authority 255.249(2) FS. Law Implemented 255.249(2)(i) FS. History–New 4-5-76, Amended 4-25-79, Formerly 13D-7.16, 13M-1.026, Repealed \_\_\_\_\_.

60H-1.0261 Change of Ownership.

(1) If ownership of a leased facility changes during the term of the Lease, the Department must be furnished a copy of the deed or other legal document effecting transfer of facility and the Department’s Form 4114 (Disclosure Statement).

(2) If the lessor requests rent payments be made to a different person, entity or address other than that which is stated on the Lease, they must notify the respective Agency in writing of the changes, and the Agency will notify the Department.

Rulemaking Authority 255.249(2) FS. Law Implemented 255.249(2)(h), (4) FS. History–New \_\_\_\_\_.

(Substantial rewrite of Rule 60H-1.027 follows. See Florida Administrative Code for present text.)

60H-1.027 Legal Review.

(1) Lease Actions using approved forms, as defined in rule 60H-1.003, shall not require approval of the Department’s Office of General Counsel.

(2) Lease Actions using non-approved forms, as defined in Rule 60H-1.003, Florida Administrative Code, shall require signature by the Offices of General Counsel of both the respective Agency and the Department.

Rulemaking Specific Authority 255.249(2)(a), (e) FS. Law Implemented 255.249(4), (3), (4)(e), 255.25(2) FS. History–New 4-25-79, Formerly 13D-7.17, 13M-1.027, Amended 2-21-96, 5-13-03, \_\_\_\_\_.

(Substantial rewrite of Rule 60H-1.028 follows. See Florida Administrative Code for present text.)

60H-1.028 Information and Forms.

Information and copies of all forms named in this Chapter may be obtained from:

Department of Management Services  
Division of Facilities Management  
Bureau of Property Management  
4050 Esplanade Way  
Building 4030, Suite 380  
Tallahassee, Florida 32399-0950

Rulemaking Specific Authority 120.53(1)(a), 255.249(4)(2)(a) FS. Law Implemented 255.21, 255.249, 255.25, 255.254 FS. History–New 4-25-79, Formerly 13D-7.18, 13M-1.028, Amended 2-21-96, \_\_\_\_\_.

60H-1.029 Evaluation of Responses.

Rulemaking Specific Authority 255.249(4)(b) FS. Law Implemented 255.25 FS. History–New 12-18-84, Formerly 13D-7.19, 13M-1.029, Amended 4-27-04, Repealed \_\_\_\_\_.

60H-1.0291 Filing of Leases.

A copy of each agency lease shall be filed with the Department at the following address:

Department of Management Service  
4050 Esplanade Way  
Building 4050, Suite 315  
Tallahassee, FL 32399-0950

Rulemaking Authority 255.25 FS. Law Implemented 255.25(2) FS. History–New \_\_\_\_\_.

(Substantial rewrite of Rule 60H-1.030 follows. See Florida Administrative Code for present text.)

**60H-1.030 Availability of Rate and Market Information Data Rental Rate Guidelines for Privately Owned Space.**

The Department shall supply Agencies with regional market information and rental rates upon request.

Rulemaking Specific Authority 255.249(4)(a)(f) FS. Law Implemented 255.249(4)(a)(e), 255.25(2) FS. History—New 4-1-85, Formerly 13D-7.20, Amended 3-18-86, Formerly 13M-1.030, Amended 2-21-96, Amended 9-30-96, 5-13-03, 4-27-04.

NAME OF PERSON ORIGINATING PROPOSED RULE: Anthony Andreala, Chief of Real Property Administration, Division of Real Estate Development and Management  
 NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Ms. Linda H. South, Secretary, Department of Management Services  
 DATE PROPOSED RULE APPROVED BY AGENCY HEAD: January 26, 2010  
 DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: December 4, 2009

**DEPARTMENT OF MANAGEMENT SERVICES**

**Division of Facilities Management**

RULE NOS.:	RULE TITLES:
60H-2.001	Definitions
60H-2.002	Space Allocation
60H-2.0021	Space Allocation and Configuration Standards
60H-2.0022	Agency Space Allocation Plans
60H-2.003	Space Measurement
60H-2.005	Rental Rates

PURPOSE AND EFFECT: To amend existing Chapter 60H-2 Florida Administrative Code, in order to provide greater detail and explanation related to the statutory requirements for leasing of privately owned space by state agencies. This includes responding to comments from the Joint Administrative Procedures Committee (JAPC) and rule conformity with statute changes in Chapters 2007-220, 2007-73 and 2009-77, Laws of Florida.

SUMMARY: Administrative procedures for state agency’s leasing of state-owned or privately owned space will be adjusted to meet continuing and amended statutory requirements. The processes for private leasing activity by state agencies will be updated to reflect obligations for achieving “best interest of the state” leases as indicated in Section 255.25, F.S.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: The agency has determined that this rule will not have an adverse impact on small business activities. No Statement of Estimated Regulatory Costs was prepared.

Any person who wishes to provide information regarding any estimated cost impact must do so in writing within 21 days of this notice. This proposed rule change does impact state agencies requirements and procedures when leasing either public or private space.

RULEMAKING AUTHORITY: 255.249, 255.25, 255.503 FS.  
 LAW IMPLEMENTED: 255.249, 255.21, 255.25, 255.503, 255.254, 281.02 FS.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE HELD AT THE DATE, TIME AND PLACE SHOWN BELOW (IF NOT REQUESTED, THIS HEARING WILL NOT BE HELD):

DATE AND TIME: March 8, 2010, 9:00 a.m. – 11:30 a.m.  
 PLACE: Betty Easley Conference Center, 4075 Esplanade Way, Building 4075, Room 152, Tallahassee, FL 32399

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 48 days before the workshop/meeting by contacting: Anthony Andreala, Chief of Real Property Administration, Department of Management Services, 4050 Esplanade Way, Tallahassee, Florida 32399-2100, (850)488-3759. If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Anthony Andreala, Chief of Real Property Administration, Division of Real Estate Development and Management. Phone: (850)488-3759. Email: Anthony.Andreala@dms.myflorida.com

**THE FULL TEXT OF THE PROPOSED RULES IS:**

(Substantial rewrite of Rule 60H-2.001 follows. See Florida Administrative Code for present text.)

**60H-2.001 Definitions.**

For the purpose of this chapter, each of these words shall have the following meanings:

- (1) Agency – as the context requires, means an official, officer, commission, authority, council, committee, department, division, bureau, board, section, or other unit or entity of the executive branch of State government.
- (2) Department – State of Florida Department of Management Services.
- (3) Secretary – the Secretary of the Department of Management Services or his/her designee by written order.
- (4) Division Director – the Director of the Division or his/her designee by written order.
- (5) State-owned building – any state-owned office building as defined under Section 255.248, F.S., and specifically excluding Supreme Court building pursuant to Section 272.04, F.S.

Rulemaking Specific Authority 255.249, 255.503(11) FS. Law Implemented 255.249(1), (4), 255.503, 272.04, 288.18(2) FS. History–New 8-11-75, Amended 4-25-79, Formerly 13D-8.01, Amended 3-18-86, Formerly 13M-2.001, Amended 2-21-96, 4-27-04, 9-1-05,\_\_\_\_\_.

(Substantial rewrite of Rule 60H-2.002 follows. See Florida Administrative Code for present text.)

60H-2.002 Space Allocation and Configuration Standards.

(1) The Department shall have authority to approve allocation of space in all state-owned and privately-owned leases.

(2) To the extent possible, without sacrificing critical public or client services, agencies are directed to obtain an average allocation of space, not to exceed, 180 Net Usable Square Feet per full-time employee measured in accordance with Rule 60H-2.003, Florida Administrative Code.

(3) Approval of space allocation shall be obtained from the Department in accordance with Rule 60H-1.002, Florida Administrative Code.

(4) The following types of space are exempt from the space allocation standards and are not counted in the average allocation of space referenced in subsection 60H-2.002(2), Florida Administrative Code:

(a) Public use space including reception areas, service counters and interview rooms.

(b) Special use space including rooms dedicated as laboratories, mail rooms, large conference, file or copy rooms, training rooms, records storage and warehouses, LAN rooms and cafeterias.

Rulemaking Specific Authority 255.249, 255.503(11) FS. Law Implemented 255.249(1), (3), (4)(d), 255.503, 272.04, 288.18(2) FS. History–New 8-11-75, Amended 4-25-79, Formerly 13D-8.02, Amended 3-18-86, Formerly 13M-2.002, Amended 2-21-96, 4-27-04, 9-1-05,\_\_\_\_\_.

(Substantial rewrite of Rule 60H-2.0022 follows. See Florida Administrative Code for present text.)

60H-2.0022 Agency Space Allocation Plans.

(1) Each agency shall annually submit by June 30 to the Department a Space Allocation Plan in a manner prescribed by the Department.

(2) Agency Space Allocation Plans shall provide the Department with each agency’s strategy for allocation of all space in all existing leases and shall be consistent with the Space Allocation and Configuration Standards provided in Rule 60H-2.002, Florida Administrative Code.

(3) Agency Space Allocation Plans shall include:

(a) Agency point of contact;

(b) Inventory of space, including exempted space, and whether the space is used for administrative or customer contact purposes; and

(c) Needs assessment of space for program’s activities and tasks, personnel and equipment; and

(d) Lease expiration schedules by county and planned full-time equivalent data; and

(e) Business case analysis for agency planned consolidations or co-locations; and

(f) Current occupancy and relocation costs inclusive of furnishing, fixtures and equipment, data, and communications; and

(g) A forecast of agency space needs based on population and employment expectation; and

(h) Reconfiguration or relocation strategy; and

(i) Reconfiguration or relocation timeline.

Rulemaking Specific Authority 255.249(4)(d), 255.503(11), 272.04 FS. Law Implemented 255.249(1), (3)(c), (4)(d), 255.503(2) FS. History–New 4-27-04, Amended\_\_\_\_\_.

(Substantial rewrite of Rule 60H-2.003 follows. See Florida Administrative Code for present text.)

60H-2.003 Department Standard Method of Space Measurement.

(1) The Department’s Standard Method of Space Measurement shall be Net Usable Square Footage as used in measuring the square footage of all leases.

(2) For the purposes of Agency Leases of real property, Net Usable Square Feet shall be defined as square footage which has usable value.

(a) Net Usable Square footage includes:

1. All space which has usable value; and

2. One half of walls which are shared by two separate tenants; and

3. Columns and projections which are part of the structure of a building; and

4. Corridors in the leased space or for exclusive access to the leased space.

(b) Net Usable Square Footage does not include:

1. Building vertical penetrations such as vertical air ducts, furnace or flue shafts, elevator shafts or exit stairwells; or

2. Space unavailable for lease such as public corridors, lobbies or reception areas, waiting areas or elevator lobbies, stairways or bathrooms; or

3. Space designated to the provision of building services such as mechanical rooms, elevator equipment rooms, janitorial closets or electrical rooms.

(3) Agencies shall pay rent in leased spaces for Net Usable Square Footage only.

(4) This method of space measurement shall be applied to bids, proposals or other offers by prospective lessors, public and private.

Rulemaking Specific Authority 255.249, 255.25, 272.04, 288.18 FS. Law Implemented 255.249(4)(c), 255.25(2), 272.04, 288.18(2) FS. History—New 8-11-75, Amended 4-25-79, Formerly 13D-8.03, 13M-2.003, Amended 2-21-96, 4-27-04, 9-1-05,\_\_\_\_\_.

(Substantial rewrite of Rule 60H-2.005 follows. See Florida Administrative Code for present text.)

60H-2.005 Rental Rates.

(1) Rates to be assessed agencies occupying space in Department-managed facilities shall be determined and established annually by the Department in accordance with Section 255.51, Florida Statutes, fulfilling the obligations of the Florida Facilities Pool Revenue Bond Resolution and maintaining the public’s real estate investment. Rates shall be made known to the agencies for assistance in their planning and budgeting for such occupancy. In determining the rental rate, the Department shall take into account the following expenses incurred during the ensuing fiscal year:

(a) The amount of debt service charges or any higher amount determined by the Department that must be paid during the fiscal year to the State Board of Administration or any other trustee for any debt obligations incurred by the Department for the pool facilities program.

(b) The necessary deposits or any higher amount determined by the Department, if any, to a working capital reserve, contingency reserve or other type of reserve pledged to the security of any debt obligations incurred by the Department for the pool facilities program.

(c) Necessary deposits for capital maintenance to the Capital Depreciation Reserve authorized under the Florida Building and Facilities Act.

(d) Projected operating and regular maintenance expenses to be incurred during the fiscal year for all pool facilities and expenses incurred by the Department in managing the pool facilities and for administering the fixed capital outlay program and the pool.

(2) Rates shall take into account the type of space leased by the agencies and the service elements offered and special request.

Rulemaking Specific Authority 255.249, 255.503(11) FS. Law Implemented 255.249(4)(g), 255.503, 288.18(3) FS. History—New 8-11-75, Amended 4-25-79, Formerly 13D-8.05, Amended 3-18-86, Formerly 13M-2.005, Amended 9-1-05,\_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE: Anthony Andreala, Chief of Real Property Administration, Division of Real Estate Development and Management

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Ms. Linda H. South, Secretary, Department of Management Services

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: January 26, 2010

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: December 24, 2009

**DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION**

**Building Code Administrators and Inspectors Board**

RULE NO.: 61G19-5.002  
 RULE TITLE: Disciplinary Guidelines

PURPOSE AND EFFECT: The purpose of this rule is to raise the remaining fine limits of \$1500.00 for a first offense to \$2500.00.

SUMMARY: The rule will raise the remaining fine limits of \$1500.00 for a first offense to \$2500.00.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: No Statement of Estimated Regulatory Cost was prepared.

Any person who wishes to provide information regarding a statement of estimated regulatory costs, or provide a proposal for a lower cost regulatory alternative must do so in writing within 21 days of this notice.

RULEMAKING AUTHORITY: 455.227, 455.2273, 468.606 FS.

LAW IMPLEMENTED: 455.227, 455.2273, 468.607, 468.621, 468.629 FS.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE SCHEDULED AND ANNOUNCED IN THE FAW.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Robyn Barineau, Executive Director, Building Code Administrators and Inspectors Board, 1940 North Monroe Street, Tallahassee, Florida 32399-0750

THE FULL TEXT OF THE PROPOSED RULE IS:

- 61G19-5.002 Disciplinary Guidelines.
- (1) through (2) No change.

VIOLATION

(a) through (o) No change.  
 (p) Failing to report to the department any person who the licensee knows is in violation of Chapter 468, Part XII, Chapter 455, or the rules of the Board or Department.  
 (455.277(1)(I), F.S.)

(q) No change.  
 (r) Practicing or offering to practice beyond the scope of law or competence.  
 (455.227(1)(o), F.S.)

(s) Knowingly delegating professional responsibilities to an unqualified person.  
 (455.227(1)(p), F.S.)

(t) No change.  
 (u) Failing to lawfully execute the duties and responsibilities specified in this part and in Sections 553.73, 553.781, 553.79 and 553.791, F.S.

RECOMMENDED RANGE OF PENALTY

(p)1. In case of an applicant, the usual action of the Board shall be denial or licensure with probation and an administrative fine. In case of the licensee, the usual action of the Board shall be to impose a penalty from reprimand to probation and a fine of up to \$2,500 ~~1,500~~.

(p)2. After the first offense, in the case of an applicant the usual action of the Board shall be denial. In the case of a licensee, the usual action of the Board shall be to impose a penalty from suspension followed by probation to revocation and a fine of up to \$5,000.

(r)1. In the case of an applicant, the usual action of the Board shall be licensure with probation and an administrative fine or denial. In the case of a licensee, the usual action of the Board shall be to impose a penalty from probation to suspension of license and a fine of up to \$2,500 ~~1,500~~.

(r)2. After the first offense, in the case of an applicant, the usual action of the Board shall be denial. In the case of a licensee, the usual action of the Board shall be to impose a penalty from suspension of license followed by probation to revocation and a fine of up to \$5,000.

(s)1. In case of an applicant, the usual action of the Board shall be licensure with probation and an administrative fine or denial. In case of the licensee, the usual action of the Board shall be to impose a penalty from suspension to revocation and a fine of up to \$2,500 ~~1,500~~.

(s)2. After the first offense, in the case of an applicant, the usual action of the Board shall be denial. In the case of a licensee, the usual action shall be to impose a penalty from suspension of license followed by probation to revocation and a fine of up to \$5,000.

(u)1. Unless otherwise specified in this rule, in the case of an applicant, the usual action of the Board shall be from licensure with an administrative fine and probation to denial; in the case of a licensee, the usual action of the Board shall be to impose a penalty from reprimand to probation and a fine of up to \$2,500 ~~1,500~~.

(u)2. After the first offense, a minimum of one year's probation to revocation or denial of licensure, and a fine of up to \$3,000 depending on the underlying offense and the magnitude of the violation.

(v) Performing building code inspection services under Section 553.791, F.S., without satisfying the insurance requirements of said section.

(3) through (5) No change.

Rulemaking Authority 455.227, 455.2273, 468.606 FS. Law Implemented 455.227, 455.2273, 468.607, 468.621, 468.629 FS. History—New 5-23-94, Amended 8-14-96, 8-3-97, 11-2-00, 4-10-06, 1-10-07, 9-20-09,\_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE: Building Code Administrators and Inspectors

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Building Code Administrators and Inspectors

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: October 15, 2009

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: January 15, 2010

**DEPARTMENT OF ENVIRONMENTAL PROTECTION**

Notices for the Department of Environmental Protection between December 28, 2001 and June 30, 2006, go to <http://www.dep.state.fl.us/> under the link or button titled "Official Notices."

**DEPARTMENT OF HEALTH**

**Board of Dentistry**

RULE NO.: 64B5-16.005  
 RULE TITLE: Remediable Tasks Delegable to Dental Assistants

PURPOSE AND EFFECT: To clarify and update language.  
 SUMMARY: The rule amendment will clarify and update language.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: No Statement of Estimated Regulatory Cost was prepared. The Board determined that small businesses would not be affected by this rule.

Any person who wishes to provide information regarding a statement of estimated regulatory costs, or provide a proposal for a lower cost regulatory alternative must do so in writing within 21 days of this notice.

RULEMAKING AUTHORITY: 466.004(4), 466.024(3) FS.  
 LAW IMPLEMENTED: 466.024 FS.  
 IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE SCHEDULED AND ANNOUNCED IN THE FAW.

(v)1. Unless otherwise specified in this rule, in the case of an applicant, the usual action of the Board shall be from licensure with an administrative fine and probation to denial; in the case of a licensee, the usual action of the Board shall be to impose a penalty from reprimand to probation and a fine of up to \$2,500 ~~4,500~~.

(v)2. After the first offense, a minimum of one year's probation to revocation or denial of license, and a fine of up to \$3,000 depending on the underlying offense and the magnitude of the violation.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Sue Foster, Executive Director, Board of Dentistry/MQA, 4052 Bald Cypress Way, Bin #C08, Tallahassee, Florida 32399-3258

THE FULL TEXT OF THE PROPOSED RULE IS:

64B5-16.005 Remediable Tasks Delegable to Dental Assistants

(1) through (5) No change.

(6) The following remediable tasks may be performed by a dental assistant who is a graduate of an expanded duty program approved by the Florida Board of Dentistry pursuant to Rule 64B5-16.002, Florida Administrative Code, or has received the required training through a program accredited by the American Dental Association's Commission on Dental Accreditation and who performs these tasks in health access settings as defined by Section 466.003, F.S., under general supervision:

(a) Applying topical fluorides which are approved by the American Dental Association or the Food and Drug Administration, including the use of fluoride varnishes;

(b) Polishing clinical crowns when not for the purpose of changing the existing contour of the tooth and only with the following instruments used with appropriate polishing materials – slow-speed hand pieces, rubber cups, bristle brushes and porte polishers;

(c) Applying dental sealants;

(d) Polishing dental restorations of the teeth when not for the purpose of changing the existing contour of the tooth and only with the following instruments used with appropriate polishing materials – burnishers, slow-speed hand pieces, rubber cups, and bristle brushes;

(e) Using appropriate implements for preliminary charting of existing restorations and missing teeth and a visual assessment of existing oral conditions;

(f) Positioning and exposing dental and carpal radiographic film and sensors;

(g) Taking or recording patients' blood pressure rate, pulse rate, respiration rate, case history and oral temperature.

(7) The dental assistant performing tasks in health access settings as defined by Section 466.003, F.S., under general supervision shall maintain current training in cardiopulmonary resuscitation (CPR) at the basic support level, including one-rescuer and two-rescuer CPR for adults, children, and infants; the relief of foreign body airway obstructions for adults, children, and infants; the use of an automatic external defibrillator (AED); and the use of ambu-bags resulting in certification or recertification by the American Heart Association, the American Red Cross or an entity with equivalent requirements.

Rulemaking Specific Authority 466.004(4), 466.024(3) FS. Law Implemented 466.024 FS. History--New 1-18-89, Amended 11-16-89, 3-25-90, 9-5-91, 2-1-93, Formerly 21G-16.005, Amended 3-30-94, Formerly 61F5-16.005, Amended 1-9-95, 9-27-95, 6-12-97, Formerly 59Q-16.005, Amended 1-8-01, 4-22-03, 7-13-05, 3-24-08.

NAME OF PERSON ORIGINATING PROPOSED RULE:  
Board of Dentistry  
NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Board of Dentistry  
DATE PROPOSED RULE APPROVED BY AGENCY HEAD: October 30, 2009  
DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: January 8, 2010

**DEPARTMENT OF HEALTH**

**Board of Dentistry**

RULE NO.: 64B5-16.006  
RULE TITLE: Remediable Tasks Delegable to a Dental Hygienist

PURPOSE AND EFFECT: To clarify and update language.  
SUMMARY: The rule amendment will clarify and update language.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: No Statement of Estimated Regulatory Cost was prepared. The Board determined that small businesses would not be affected by this rule.

Any person who wishes to provide information regarding a statement of estimated regulatory costs, or provide a proposal for a lower cost regulatory alternative must do so in writing within 21 days of this notice.

RULEMAKING AUTHORITY: 466.004, 466.023, 466.024 FS.

LAW IMPLEMENTED: 466.023, 466.024 FS.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE SCHEDULED AND ANNOUNCED IN THE FAW.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Sue Foster, Executive Director, Board of Dentistry/MQA, 4052 Bald Cypress Way, Bin #C08, Tallahassee, Florida 32399-3258

THE FULL TEXT OF THE PROPOSED RULE IS:

64B5-16.006 Remediable Tasks Delegable to a Dental Hygienist

(1) through (5) No change.

(6) The following remediable tasks may be performed by a Florida licensed dental hygienist in health access settings as defined by Section 466.003, F.S., without the physical presence, prior examination or authorization of a dentist:

(a) Taking or recording patients' blood pressure rate, pulse rate, respiration rate, case history and oral temperature;

(b) Removing calculus deposits, accretions and stains from exposed surfaces of the teeth and from the tooth surfaces within the gingival sulcus (not to include root planing or curettage);

(c) Applying topical fluorides which are approved by the American Dental Association or the Food and Drug Administration, including the use of fluoride varnishes;

(d) Applying dental sealants.

Rulemaking Specific Authority 466.004, 466.023, 466.024 FS. Law Implemented 466.023, 466.024 FS. History--New 1-18-89, Amended 11-16-89, 3-25-90, 9-5-91, 2-1-93, Formerly 21G-16.006, Amended 3-30-94, Formerly 61F5-16.006, Amended 1-9-95, 6-12-97, Formerly 59Q-16.006, Amended 1-25-98, 9-9-98, 3-25-99, 4-24-00, 9-27-01, 7-13-05, 2-14-06, 3-24-08.

NAME OF PERSON ORIGINATING PROPOSED RULE:  
Board of Dentistry  
NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Board of Dentistry  
DATE PROPOSED RULE APPROVED BY AGENCY HEAD: October 30, 2009  
DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: January 8, 2010

**DEPARTMENT OF HEALTH**

**Board of Optometry**

RULE NO.: 64B13-4.001  
RULE TITLE: Examination Requirements

PURPOSE AND EFFECT: The purpose of this rule amendment is to specify the percentage ranges for the various items in the examination rather than exact percentages in the examination rule.

SUMMARY: The rule specifies the percentage rangers for examination items.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: No Statement of Estimated Regulatory Cost was prepared.

Any person who wishes to provide information regarding a statement of estimated regulatory costs, or provide a proposal for a lower cost regulatory alternative must do so in writing within 21 days of this notice.

RULEMAKING AUTHORITY: 456.017(1)(2), 463.005, 463.006(2) FS.

LAW IMPLEMENTED: 456.017(1)(2), 463.006(2) FS.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE SCHEDULED AND ANNOUNCED IN THE FAW.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Joe Baker, Jr., Executive Director, Board of Optometry, 4052 Bald Cypress Way, Bin #C07, Tallahassee, Florida 32399-3257

THE FULL TEXT OF THE PROPOSED RULE IS:

64B13-4.001 Examination Requirements.

The examination for licensure shall consist of the National Board of Examiners in Optometry examination (hereafter NBE0 examination), and Parts I and II of the state examination for licensure. The examination for certification of a licensee shall consist of the Treatment and Management of Ocular Disease (hereafter TMOD) part of the NBE0.

(1) The Florida licensure examination authorized in subsection 463.006(2), Florida Statutes, shall consist of the following parts: NBE0 Examination – A passing score must be obtained on Parts I, II, and the Treatment and Management of Ocular Disease (TMOD) of the NBE0 examination within the five years prior to application for the state examination. However, said five years period shall be extended to include those immediately preceding years after the applicant has taken and passed the NBE0 and during which the applicant was continuously attending a qualified school of optometry. Candidates with NBE0 scores before 1993 may substitute a scaled score of at least 75 on the clinical pharmacology section of the clinical sciences part of NBE0 examination for the TMOD requirement.

(a) Part I – a written examination on applicable Florida laws and rules governing the practice of optometry developed by the Florida Department of Health;

(b) Part II – a practical examination containing a clinical portion and a pharmacology/ocular disease portion developed by the Florida Department of Health;

(c) Part III – the Applied Basic Science portion of the examination developed by the National Board of Examiners in Optometry (NBE0); and

(d) Part IV – the Clinical Science portion of the examination developed by the NBE0.

(2) An applicant must achieve a passing grade on all four parts of the Florida licensure examination. A score of 84 percent or better must be obtained in order to achieve a passing score on Part I of the Florida licensure examination. A score of 80 percent or better must be obtained on each section of Part II in order to achieve a passing score on Part II of the Florida licensure examination. Passing scores for Part III and Part IV of the Florida licensure examination are established by the NBE0. Given constant advances in research and developing

knowledge in the area of basic and clinical science as applied to the diagnosis, correction, remedy, and relief of insufficiencies or abnormal conditions of the human eyes and their appendages, passing scores on Part III and Part IV of the Florida licensure examination must be obtained within the 5 year period immediately preceding October 1 of the year that the applicant takes Parts I and II of the Florida licensure examination State Examination.

(a) ~~The state examination for licensure shall consist of two parts. An applicant shall be required to achieve a passing grade on both Parts I and II of the state examination. Part I of the examination is a written examination, and Part II is a practical examination.~~

(b) ~~Part I of the state examination for licensure is an examination on the applicable state laws and rules governing the practice of optometry.~~

(c) ~~An applicant must attain a score of 84 percent or better on this examination in order to secure a passing grade on Part I of the examination.~~

(3)~~(d)~~ ~~Part II of the Florida licensure state examination for licensure shall consist of a clinical portion and a pharmacology/ocular disease portion.~~

(a)~~1-~~ ~~The subject areas and associated weights for the clinical portion of Part II the practical examination shall be as follows:~~

<del>1.a.</del> Confrontation Visual Field Testing for Neurologic Deficit (Finger Counting Visual Field Recognition, Location, and Disease Process)	<del>7-12%</del> <u>9%</u>
<del>2.b.</del> Muscle Balance and Motility	<del>2-7%</del> <u>4%</u>
<del>3.e.</del> Pupillary Examination	<del>8-13%</del> <u>8%</u>
<del>4.d.</del> Objective Examination (Retinoscopy)	<del>1-6%</del> <u>2%</u>
<del>5.e.</del> Subjective Refraction	<del>1-6%</del> <u>3%</u>
<del>6.f.</del> Internal Examination by Means of Binocular Indirect Ophthalmoscopy	<del>15-20%</del> <u>18.5%</u>
<del>7.g.</del> Biomicroscopy Anterior	<del>17-22%</del> <u>21.5%</u>
<del>8.h.</del> Biomicroscopy Posterior (Fundus Lens)	<del>16-21%</del> <u>17%</u>
<del>9.i.</del> Goldmann Tonometry	<del>9-14%</del> <u>10%</u>
<del>10.j.</del> Gonioscopy	<del>6-11%</del> <u>7%</u>

(b)~~2.~~ ~~The grading criteria for each subject area and the points associated with each criterion shall be as follows:~~

a. ~~Confrontation Visual Field Testing for Neurologic Deficit (Finger Counting and Visual Field Defect Recognition, Location, and Disease Process) - 1-1.~~ ~~Conducts specified visual field test in a manner consistent with obtaining accurate findings.~~



Accurately identify visual field defect name, location, and disease process 6-11 ~~9~~  
 b. Muscle Balance and Motility Testing = ~~1-1~~  
 Conducts examinations in a manner That will allow for evaluation of any phoric and or tropic posture, deficiencies in extra ocular muscles, or cranial nerve paresis 3-8 ~~4~~  
 c. Pupillary Examination = ~~1-1~~ Conducts pupillary tests in a manner consistent with obtaining accurate findings 5-10 ~~8~~  
 d. Objective Examination (Retinoscopy) = ~~1-1~~ Conducts Retinoscopy in a manner capable of obtaining a visual acuity of 20/30 2-7 ~~2~~  
 e. Subjective Refraction = ~~1-1~~ Conducts refraction in a manner capable of obtaining a visual acuity of 20/20 2-7 ~~3~~  
 f. Internal Examination by Means of Binocular Indirect Ophthalmoscopy = ~~1-1~~ Accurately views and evaluates retinal landmark as requested 16-21 ~~18-5~~  
 g. Biomicroscopy (Anterior) = 1.1. Uses proper technique to demonstrate requested views of anterior structures of eye 20-25 ~~24-5~~  
 h. Biomicroscopy Posterior (Fundus lens.) = ~~1-1~~ Accurately views and evaluates posterior landmarks as requested 16-21 ~~17~~  
 i. Tonometry = ~~1-1~~ Demonstrates accurate technique for the measurement of intra-ocular pressure 7-12 ~~10~~  
 j. Gonioscopy = 1.1. Demonstrates accurate technique for identifying angle structures 4-9 ~~7~~

- ~~(c)3-~~ No change.
- 1.a- No change.
- 2.b- No change.
- 3.e- No change.
- 4.d- No change.
- 5.e- No change.
- 6.f- No change.
- 7.g- No change.
- (d)4- No change.
- (e)5- No change.
- 1.a- No change.
- 2.b- No change.
- 3.e- No change.
- 4.d- No change.
- 5.e- No change.
- 6.f- No change.
- 7.g- No change.
- 8.h- No change.
- (f)6- No change.
- (4)(3) No change.

Rulemaking Specific Authority 456.017(~~1~~)(~~2~~), 463.005, 463.006(2) FS. Law Implemented 456.017(~~1~~)(~~2~~), 463.006(2) FS. History–New 11-13-79, Amended 5-28-80, 7-10-80, 8-20-81, 2-14-82, 6-6-82, 10-3-82, 4-10-84, 5-29-85, Formerly 21Q-4.01, Amended 7-21-86, 11-20-86, 7-27-87, 7-11-88, 7-18-91, 4-14-92, Formerly 21Q-4.001, Amended 2-14-94, Formerly 61F8-4.001, Amended 8-8-94, 11-21-94, 4-21-96, Formerly 59V-4.001, Amended 7-27-99, 7-15-02, 3-8-04, \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE:  
 Board of Optometry  
 NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Board of Optometry  
 DATE PROPOSED RULE APPROVED BY AGENCY HEAD: July 22, 2009 and October 22, 2009  
 DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: August 7, 2009

**DEPARTMENT OF HEALTH**

**Board of Optometry**

RULE NO.: 64B13-5.002  
 RULE TITLE: Criteria for Approval  
 PURPOSE AND EFFECT: The purpose of the amendment is to clarify that instructors for courses focusing on optometric practice management need not hold doctoral level degrees.  
 SUMMARY: The rule clarifies that instructors of optometric practice management courses need not hold doctoral degrees.  
 SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: No Statement of Estimated Regulatory Cost was prepared.

Any person who wishes to provide information regarding a statement of estimated regulatory costs, or provide a proposal for a lower cost regulatory alternative must do so in writing within 21 days of this notice.

RULEMAKING AUTHORITY: 463.005(1) FS.

LAW IMPLEMENTED: 463.007(4) FS.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE SCHEDULED AND ANNOUNCED IN THE FAW.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Joe Baker, Jr., Executive Director, Board of Optometry, 4052 Bald Cypress Way, Bin #C07, Tallahassee, Florida 32399-3257

THE FULL TEXT OF THE PROPOSED RULE IS:

64B13-5.002 Criteria for Approval.

(1) No change.

(2)(a)1. through 6. No change.

7. Instructors must have the necessary qualifications, training and experience to present the course. Principal instructors must hold a minimum of a doctorate-level degree (O.D., M.D., Ph.D., D.O., J.D., D.D.S., D.C., Pharm.D., L.L.D., D.Ed., D.Sc., etc.) or its international equivalent.

Faculties at accredited schools or colleges of optometry are exempt from this requirement. Individuals who do not hold at least a doctorate-level degree, or are not on faculty at an accredited school or college of optometry shall only be listed as adjunct instructors for the course and only when the principal instructor holds a doctorate-level degree. For courses focusing on optometric practice management, instructors are not required to hold doctoral level degrees, but must demonstrate their expertise in providing such continuing education.

- (b) No change.
- (3) through (4) No change.

Rulemaking Specific Authority 463.005(1) FS. Law Implemented 463.007(4) FS. History–New 11-13-79, Formerly 21Q-5.02, Amended 12-16-86, 12-11-88, 7-10-91, 10-28-92, Formerly 21Q-5.002, 61F8-5.002, Amended 11-29-94, 7-5-95, 8-18-96, Formerly 59V-5.002, Amended 3-21-00, 5-8-02, 8-19-03, 12-26-05, 12-25-06,\_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE:  
Board of Optometry  
NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Board of Optometry  
DATES PROPOSED RULE APPROVED BY AGENCY HEAD: July 22, 2009 and October 22, 2009  
DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: August 7, 2009

**DEPARTMENT OF HEALTH**

**Board of Orthotists and Prosthetists**

RULE NO.: 64B14-3.001 RULE TITLE: Definitions  
PURPOSE AND EFFECT: The Board is adding mandatory courses and renumbering accordingly.  
SUMMARY: Mandatory courses are being added and renumbered accordingly.  
SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: No Statement of Estimated Regulatory Cost was prepared.  
Any person who wishes to provide information regarding a statement of estimated regulatory costs, or provide a proposal for a lower cost regulatory alternative must do so in writing within 21 days of this notice.  
RULEMAKING AUTHORITY: 468.802 FS.  
LAW IMPLEMENTED: 468.802, 468.803, 468.807, 468.808, 468.809 FS.  
IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE SCHEDULED AND ANNOUNCED IN THE FAW.  
THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Joe Baker, Jr., Executive Director, Board of Orthotists and Prosthetists /MQA, 4052 Bald Cypress Way, Bin #C07, Tallahassee, Florida 32399-3257

THE FULL TEXT OF THE PROPOSED RULE IS:

64B14-3.001 Definitions.

As used in this chapter, the following terms shall mean:

(1) through (18) No change.

(19) Mandatory courses – those courses defined by Board Rule 64B14-5.005, F.A.C., and required by the Board for registration, initial license, and license renewal.

(19) through (30) renumbered (20) through (31) No change.

Rulemaking Specific Authority 468.802 FS.Law Implemented 468.802, 468.803, ~~468.807~~, 468.808, 468.809 FS. History–New 10-21-99, Amended 2-19-04, 5-5-04, 5-23-07, 8-8-07, 3-2-08,\_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE:  
Board of Orthotists and Prosthetists  
NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Board of Orthotists and Prosthetists  
DATE PROPOSED RULE APPROVED BY AGENCY HEAD: December 10, 2009  
DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: January 15, 2010

**DEPARTMENT OF HEALTH**

**Board of Orthotists and Prosthetists**

RULE NO.: 64B14-4.003 RULE TITLE: Documentation of Eligibility for Licensure

PURPOSE AND EFFECT: The Board proposes to add new language for requirements for eligibility of licensure.  
SUMMARY: New language is being added for requirements for eligibility of licensure.  
SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: No Statement of Estimated Regulatory Cost was prepared.  
Any person who wishes to provide information regarding a statement of estimated regulatory costs, or provide a proposal for a lower cost regulatory alternative must do so in writing within 21 days of this notice.  
RULEMAKING AUTHORITY: 468.802 FS.  
LAW IMPLEMENTED: 456.013(1), (7), 468.803 FS.  
IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE SCHEDULED AND ANNOUNCED IN THE FAW.  
THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Joe Baker, Jr., Executive Director, Board of Orthotists and Prosthetists /MQA, 4052 Bald Cypress Way, Bin #C07, Tallahassee, Florida 32399-3257

THE FULL TEXT OF THE PROPOSED RULE IS:

64B14-4.003 Documentation of Eligibility for Licensure.

(1) In order to establish eligibility for licensure as an orthotist or prosthetist under Section 468.803(3)(a) or (b), F.S., the applicant must submit an Application for Licensure, form DH-MQA 1132m 8/08, herein incorporated by reference, which is available from the Board office or at the board's website: <http://www.doh.state.fl.us/mqa/OrthPros/index.html>, and provide:

(a) through (d) No change.

(e) Documentation of completion of the mandatory courses.

(2) In order to establish eligibility for licensure as an orthotic fitter under Section 468.803(3)(c), F.S., the applicant must provide at a minimum:

(a) through (d) No change.

(e) Documentation of completion of the mandatory courses.

(3) In order to establish eligibility for licensure as an orthotic fitter assistant under Section 468.803(3)(d), F.S., the applicant must provide at a minimum:

(a) through (c) No change.

(d) Documentation of completion of the mandatory courses.

(4) In order to establish eligibility for licensure as a pedorthist under Section 468.803(3)(e), F.S., the applicant must provide at a minimum:

(a) through (c) No change.

(d) Documentation of completion of the mandatory courses.

~~(5) Each applicant, as a condition to initial licensure, shall attend and provide proof of attending, a Board approved two hour course relating to the prevention of medical errors. The course must include a study of root cause analysis, error reduction and prevention, and patient safety.~~

Rulemaking Specific Authority 468.802 FS. Law Implemented 456.013(1), (7), 468.803 FS. History--New 12-10-98, Amended 11-11-02, 11-1-05, 9-21-06, 4-19-09,\_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE:  
Board of Orthotists and Prosthetists

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Board of Orthotists and Prosthetists

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: December 10, 2009

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: January 15, 2010

DEPARTMENT OF HEALTH

Board of Orthotists and Prosthetists

RULE NO.: 64B14-4.110  
RULE TITLE: Requirements for Orthotic Fitter, Orthotic Fitter Assistant and Pedorthist

PURPOSE AND EFFECT: The Board proposes the rule amendment to clarify documentation for completion of mandatory courses.

SUMMARY: The proposed rule will clarify documentation for completion of mandatory courses.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: No Statement of Estimated Regulatory Cost was prepared.

Any person who wishes to provide information regarding a statement of estimated regulatory costs, or provide a proposal for a lower cost regulatory alternative must do so in writing within 21 days of this notice.

RULEMAKING AUTHORITY: 468.802, 468.803 FS.

LAW IMPLEMENTED: 468.803 FS.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE SCHEDULED AND ANNOUNCED IN THE FAW.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Joe Baker, Jr., Executive Director, Board of Orthotists and Prosthetists, 4052 Bald Cypress Way, Bin #C07, Tallahassee, Florida 32399-3257

THE FULL TEXT OF THE PROPOSED RULE IS:

64B14-4.110 Requirements for Orthotic Fitter, Orthotic Fitter Assistant and Pedorthist.

(1) Requirements for Licensure as an Orthotic Fitter. The applicant must demonstrate:

(a) through (b) No change.

(c) Documentation of completion of the mandatory courses.

(2) Requirements for Licensure as an Orthotic Fitter Assistant. The applicant must demonstrate successful completion of the 32-hour Trulife Healthcare or the 32-hour Surgical Appliance Industries orthotics course and examination, documentation of completion of the mandatory courses, and completion of an approved eight hour course in custom-molded shoes.

(3) Requirements for Licensure as a Pedorthist.

(a) through (b) No change.

(c) Documentation of completion of the mandatory courses.

Rulemaking Specific Authority 468.802, 468.803 FS. Law Implemented 468.803 FS. History--New 11-1-99, Amended 1-16-06, 9-21-06, 8-13-08,\_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE:  
Board of Orthotists and Prosthetists  
NAME OF AGENCY HEAD WHO APPROVED THE  
PROPOSED RULE: Board of Orthotists and Prosthetists  
DATE PROPOSED RULE APPROVED BY AGENCY  
HEAD: December 10, 2009  
DATE NOTICE OF PROPOSED RULE DEVELOPMENT  
PUBLISHED IN FAW: January 15, 2010

**DEPARTMENT OF HEALTH**

**Board of Orthotists and Prosthetists**

RULE NO.: 64B14-5.005      RULE TITLE: Mandatory Courses  
PURPOSE AND EFFECT: The Board is adding a list of mandatory courses.  
SUMMARY: The proposed rule will add a list of mandatory courses.  
SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: No Statement of Estimated Regulatory Cost was prepared.  
Any person who wishes to provide information regarding a statement of estimated regulatory costs, or provide a proposal for a lower cost regulatory alternative must do so in writing within 21 days of this notice.  
RULEMAKING AUTHORITY: 468.802 FS.  
LAW IMPLEMENTED: 468.802, 468.803, 468.806, 468.808, 468.809 FS.  
IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE SCHEDULED AND ANNOUNCED IN THE FAW.  
THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Joe Baker, Jr., Executive Director, Board of Orthotists and Prosthetists, 4052 Bald Cypress Way, Bin #C07, Tallahassee, Florida 32399-3257

THE FULL TEXT OF THE PROPOSED RULE IS:

64B14-5.005 Mandatory Courses.

(1) Mandatory courses consist of the following:

(a) Two hours on Chapters 456, 468 Part XIV, F.S., and Rule Chapter 64B14, F.A.C.; and

(b) Two hours relating to the prevention of medical errors, which shall include a study of root cause analysis, error reduction and prevention, and patient safety; and

(c) One hour on infection disease control, including HIV/AIDS; and

(d) A Course resulting in current registration or certification demonstrating competency in CPR sponsored by the American Heart Association, the American Safety and Health Institute or the American Red Cross.

(2) With the exception of the CPR and infectious disease control courses, mandatory courses shall be designed and developed specifically for the fields of Orthotics and Prosthetics.

(3) Mandatory courses may be used for multiple registrations, examinations or initial license applications and for license renewal, if they are used within two years of the date the courses were completed.

(4) Mandatory courses set forth in paragraphs (1)(a), (1)(b) and (1)(c) must be individually approved by the Board.

(5) To be considered for approval, each mandatory course must meet the requirements set forth in Rule 64B14-5.003, F.A.C., and must:

(a) Be resubmitted for review and renewal every biennium;

(b) Be authored and presented by individual(s) knowledgeable in the course material and the field of orthotics and prosthetics;

(c) Contain the name of the author, the author's credentials demonstrating expertise and knowledge, the original date of authorship, and the date last reviewed and/or modified; and

(d) Be submitted to the Board by an approved continuing education provider.

(6) Providers and a list of mandatory courses may be obtained from [www.cebroker.com](http://www.cebroker.com).

Rulemaking Authority 468.802 FS. Law Implemented 468.802, 468.803, 468.808, 468.809 FS. History—New \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE:  
Board of Orthotists and Prosthetists  
NAME OF AGENCY HEAD WHO APPROVED THE  
PROPOSED RULE: Board of Orthotists and Prosthetists  
DATE PROPOSED RULE APPROVED BY AGENCY  
HEAD: December 10, 2009  
DATE NOTICE OF PROPOSED RULE DEVELOPMENT  
PUBLISHED IN FAW: January 15, 2010

**DEPARTMENT OF HEALTH**

**Board of Orthotists and Prosthetists**

RULE NO.: 64B14-7.001      RULE TITLE: Standards of Practice  
PURPOSE AND EFFECT: The Board proposes the rule amendment to delete unnecessary language and to add new language to clarify standards of practice.  
SUMMARY: The rule amendment will clarify the rule in the practice of prosthetics and orthotics.  
SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: No Statement of Estimated Regulatory Cost was prepared.  
Any person who wishes to provide information regarding a statement of estimated regulatory costs, or provide a proposal for a lower cost regulatory alternative must do so in writing within 21 days of this notice.  
RULEMAKING AUTHORITY: 468.802, 468.806 FS.  
LAW IMPLEMENTED: 456.013, 456.024, 468.806 FS.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE SCHEDULED AND ANNOUNCED IN THE FAW.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Joe Baker, Jr., Executive Director, Board of Orthotists and Prosthetists /MQA, 4052 Bald Cypress Way, Bin #C07, Tallahassee, Florida 32399-3257

THE FULL TEXT OF THE PROPOSED RULE IS:

64B14-7.001 Standards of Practice.

(1) Pursuant to a licensed physician’s written prescription, the orthotist, prosthetist, resident, intern, pedorthist or orthotic fitter or orthotic fitter assistant shall assume the responsibility for assessing the patient, planning the patient’s treatment plan, program and directing the program. No licensee shall implement a prescription that, in the licensee’s judgment, is contraindicated. No change shall be made in the prescription without the authorization of the prescribing physician.

(2) The licensee’s or registrant’s orthotist, prosthetist, or pedorthist’s professional responsibilities include:

(a) through (g) No change.

(h) Prior to rendering services, advising the patient or guardian, in terms which the patient or guardian can understand, of the nature and purpose of the services to be rendered, the nature and purposes of the prescribed device, and the treatment plan, techniques for use and care of an orthosis or prosthesis, and an estimate of delivery time and financial responsibilities.

(i) No change.

(3) Sexual misconduct in the practice of “Orthotics/Prosthetics” by any person licensed under this chapter is prohibited. Sexual misconduct in the practice of orthotics/ prosthetics means exercising influence within the licensee-patient relationship for purposes of engaging a patient in sexual activity.

(4) It is below the standards of practice for any person licensed under this chapter ~~orthotists/prosthetists~~ to practice if they are unable to practice with reasonable skill and safety to patients by reason of illness, use of alcohol, drugs, narcotics or chemicals, or any other type of material, or as a result of any mental or physical condition.

(5) It is below the standard of practice and prohibited under this section for any person licensed under this chapter to delegate or assign activities, tasks or procedures that fall within the scope of any practice defined in Section 468.80, F.S., to support personnel, without providing direct supervision for the performance of the activities, tasks or procedures. Direct Supervision requires:

(a) The licensed orthotist, prosthetist, orthotist/prosthetist, or pedorthist to provide a physical evaluation of each patient’s orthotic and or prosthetic needs and may delegate appropriate duties to support personnel. However, the licensed practitioner

shall physically evaluate the effectiveness, appropriateness and fit of all devices within the scope of the licensed practitioner’s licensure practice requirements, including those repaired devices in which the repairs affect the fit, physical structure or biomechanical function of the device, on every patient, prior to the delivery of the device;

(b) For the purpose of replacement of worn or broken components which do not in any way alter the fit, physical structure or biomechanical functioning of the existing device, direct supervision of support personnel providing repairs to orthoses or prosthesis means the aforementioned repair must be approved by the appropriately licensed practitioner prior to beginning of repairs. The responsible licensed practitioner must at all times be accessible by two way communication, enabling the supervisor to respond to questions relating to the repair.

Rulemaking Specific Authority 468.802 FS. Law Implemented 456.063(1), 456.072(1)(o), (u), 468.802, 468.808 FS. History–New 7-1-98, Amended 10-24-04, 1-16-06, \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE: Board of Orthotists and Prosthetists

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Board of Orthotists and Prosthetists

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: July 31, 2009

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: November 20, 2009

**DEPARTMENT OF FINANCIAL SERVICES**

**Division of State Fire Marshal**

RULE NO.: RULE TITLE:

69A-51.020 Certificates of Competency

PURPOSE AND EFFECT: To simplify the rule and clarify that an application for Certificate of Competency for a Special Inspector must be submitted by the employing insurance company which must be authorized to, and be actively engaged in, writing boiler insurance in this State. The amendment also updates and consolidates the applications for special and deputy inspectors and renewals, and adopts an application for the required examination.

SUMMARY: The rule sets forth the process for issuing a Certificate of Competency for a Special Inspector who is employed by an insurer issuing boiler insurance in this state. The application must be submitted by the employing insurance company which must be authorized to, and be actively engaged in writing boiler insurance in this State. The amendment also updates and consolidates the applications for special and deputy inspectors and renewals, and adopts an application for the required examination.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: The agency has determined that this rule will not have an impact on small business. A SERC has been prepared by the agency.

Any person who wishes to provide information regarding a statement of estimated regulatory costs, or provide a proposal for a lower cost regulatory alternative must do so in writing within 21 days of this notice.

RULEMAKING AUTHORITY: 554.103 FS.

LAW IMPLEMENTED: 554.105, 554.106, 554.107, 554.108, 554.111, 554.112, 554.113 FS.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE HELD AT THE DATE, TIME AND PLACE SHOWN BELOW (IF NOT REQUESTED, THIS HEARING WILL NOT BE HELD):

DATE AND TIME: Monday, March 8, 2010, 9:30 a.m.

PLACE: Third Floor Conference Room, the Atrium Office Building, 325 John Knox Road, Tallahassee, Florida

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 5 days before the workshop/meeting by contacting: Mike Burns (850)413-3614; Mike.Burns@myfloridacfo.com. If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Mike Burns, Chief Boiler Inspector, (850)413-3614; Mike.Burns@myfloridacfo.com

THE FULL TEXT OF THE PROPOSED RULE IS:

69A-51.020 Certificates of Competency.

~~(1) Special Inspectors. Certificates of Competency shall be issued to applicants for the position of Deputy Inspector who meet the requirements of Rule 69A-51.015, F.A.C., and who pass the examination described in Rule 69A-51.035, F.A.C., and who are employees of the Boiler Safety Program, Division of State Fire Marshal, Department of Financial Services.~~

(a) Certificates of Competency designating Special Inspectors of Boiler and Pressure Vessels shall be issued by the Chief Inspector upon application by any company authorized by the Department to insure boilers in this state. All such companies shall be actively engaged in writing boiler coverage insurance in this state.

(b) Applications shall be made on Form DFS-K3-404, revised \_\_\_\_\_, entitled "Application for Original and Renewal Certificate of Competency Special and Deputy Inspectors" adopted herein and incorporated by reference. The form may be obtained online at [http://www.myfloridacfo.com/sfm/bfpr/bfpr-boil\\_index.htm](http://www.myfloridacfo.com/sfm/bfpr/bfpr-boil_index.htm) and from the Boiler Safety Program, Department of Financial Services, 325 John Knox Road, Tallahassee, Florida 32303; (850)413-3627.

(c) Certificates of Competency shall be issued to individuals who meet the requirements of Section 554.113, F.S., pay the fee described in Section 554.111, F.S., pass the examination described in Rule 69A-51.035, F.A.C., if applicable, and are employees of the applicant company. Applications to take the examination shall be submitted on Form DFS-K3-2014, effective \_\_\_\_\_, entitled "Application for Florida Boiler Commission Examination," adopted herein and incorporated by reference. The form may be obtained online at [http://www.myfloridacfo.com/sfm/bfpr/bfpr-boil\\_index.htm](http://www.myfloridacfo.com/sfm/bfpr/bfpr-boil_index.htm) and from the Boiler Safety Program, Department of Financial Services, 325 John Knox Road, Tallahassee, Florida 32303; (850)413-3627.

(d) A Certificate of Competency shall be valid only so long as such Special Inspector is an employee of the applicant company. Upon termination of employment, the applicant company shall give written notice to the Chief Inspector within fifteen (15) days following the date of termination.

(e) All companies insuring boilers in this state shall inspect all boilers insured by them that are located in places of public assembly covered by these rules, utilizing their Special Inspectors certified by the Department.

~~(2) Deputy Inspectors. Certificates of Competency shall be issued to applicants as Special Inspectors who meet the requirements of Rule 69A-51.015, F.A.C., and who pay the fee described in Section 554.111, F.S., and who pass the examination described in Rule 69A-51.035, F.A.C., and who are full-time employees of Authorized Inspection Agencies.~~

(a) The Department shall issue a Certificate of Competency to any of its employees who meet the requirements of Section 554.113, F.S., pass the examination described in Rule 69A-51.035, F.A.C., if applicable, and are employed by the Chief Inspector.

(b) Applications shall be made on Form DFS-K3-404.

(c) A Certificate of Competency is valid only so long as such inspector is employed by the Department's Boiler Safety Program.

(3) Renewals.

(a) Every Certificate of Competency issued by the Department shall expire on December 31 of each year. Applications for renewal shall be made on Form DFS-K3-404. The application for renewal shall be properly completed, signed, and forwarded to the Department. Upon receipt of the application, an invoice for the fee set forth in Section 554.111(1)(a), F.S. will be sent to the applicant company.

(b) A certificate which is not timely renewed is inoperative; as a consequence, inspection reports dated after December 31 will not be accepted and the boilers to which they relate must be reinspected by a certified inspector.

(c) A certificate which is inoperative because of failure to renew shall be restored in accordance with Section 554.113(3), F.S. Applications for Certificates of Competency shall be made on the form entitled "Application for Certificate of

