

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

Economic Self-Sufficiency Program

RULE CHAPTER TITLE: PUBLIC ASSISTANCE PROGRAMS
 RULE CHAPTER NO.: 65A-1

RULE TITLE: MEDICARE BUY-IN DEMONSTRATION PROJECT
 RULE NO.: 65A-1.720

PURPOSE AND EFFECT: Special demonstration project procedures are proposed for the QMB, SLMB and PBMO programs of SSI-Related Medicaid to determine the effect of increased outreach for individuals qualifying for these programs. This demonstration project is being conducted under the guidance of the Health Care Financing Administration (HCFA) and the Social Security Administration (SSA) of the Department of Health and Human Services (HHS). The project is limited to individuals referred to the department by the SSA under project criteria in Orange and Osceola Counties and central Miami in Dade County. The project will terminate at the end of calendar year 1999. This proposed rule affects the department's processing of applications for individuals specifically referred by SSA in the demonstration project area for these programs.

SUBJECT AREA TO BE ADDRESSED: The department will implement limited documentation requirements in the demonstration project area for these programs. This potentially will involve new forms for use in this project. Rule material also will reflect elimination of a face-to-face interview requirement with the department in this demonstration project. All demonstration project criteria apply only to applicants specifically referred to the department by the SSA under demonstration project procedures.

SPECIFIC AUTHORITY: 409.919 FS.

LAW IMPLEMENTED: 409.903, 409.904, 409.919 FS.

IF REQUESTED IN WRITING AND DEEMED NECESSARY BY THE AGENCY HEAD, A RULE DEVELOPMENT WORKSHOP WILL BE HELD AT THE TIME, DATE AND PLACE SHOWN BELOW:

TIME AND DATE: 11:00 a.m., April 26, 1999

PLACE: 1317 Winewood Boulevard, Building 3, Room 414, Tallahassee, Florida 32399-0700

THE PERSON TO BE CONTACTED REGARDING PROPOSED RULE DEVELOPMENT IS: Audrey Mitchell, Program Administrator, 1317 Winewood Boulevard, Building 3, Room 412D, Tallahassee, Florida 32399-0700

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS NOT AVAILABLE.

**Section II
 Proposed Rules**

DEPARTMENT OF LAW ENFORCEMENT

RULE CHAPTER TITLE: _____
 RULE CHAPTER NO.: _____

General Information	11-1
RULE TITLES:	RULE NOS.:
Agency Description	11-1.001
Headquarters, Mailing address, Etc.	11-1.002
Department Internal Organization	11-1.003
Powers and Duties of Department	11-1.004
Confirmation and Delegation of Authority	11-1.0041
Relations with Other Officers and Agencies	11-1.005
Public Information and Inspection and Copying of Records	11-1.0061
Public Business	11-1.008
Vouchers	11-1.010

PURPOSE AND EFFECT: To eliminate administrative rules that are redundant, obsolete, or superseded by statute or rule, by repealing sections of Rule Chapter 11-1, F.A.C., that describe the agency organization, powers, duties, and access to public information. To provide for delegation of authority relating to the Administrative Procedure Act, s. 120.74, F.S.; to change the amounts required for approval by the Department Head from \$25,000.00 to \$100,000.00 for professional and consulting contracts; for compromise and settlement of all claims, actions and legal proceedings; and to raise the reporting requirement, by the Executive Director to the Department Head from \$25,000.00 to \$100,000.00, for expenditures involving contracts, leases, licenses, and other agreements.

SUMMARY: The sections of Rule Chapter 11-1, F.A.C., which describe the Florida Department of Law Enforcement organization, powers and duties, public access and dissemination of public records information are repealed and incorporated in the Agency Organization Statement. The rule sections dealing with public record inspection are repealed because the sections are duplicative of Chapter 119, F.S. Proposed revisions to Rule 11-1.0041, F.A.C., provide for the delegation of authority by the Governor and Cabinet, as Head of the Florida Department of Law Enforcement, to the Executive Director or the Director's designee, to implement the provisions of the Administrative Procedure Act, Chapter 120, F.S. The proposed amendments raise the amount required to be approved by the Head of the Department from \$25,000.00 to \$100,000.00 for professional and consulting contracts, and the compromise and settlement of claims, actions and other legal proceedings. The amendment also raises the amount required to be reported by the Executive Director to the Department Head from \$25,000.00 to \$100,000.00 for expenditures involving all contracts, leases, lease-purchases, licenses, and agreements. Other terms are updated to conform to the agency's new organizational designations.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: None.

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

SPECIFIC AUTHORITY: 20.05(1)(b), 943.03(4) FS.

LAW IMPLEMENTED: 20.05(1)(b), 20.201, 112.061, 120.54, 120.565, 120.569(2), 120.57(1)-(3), 120.63(1), 120.74(2), 216.345, 216.262, Chapter 943 FS.

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

TIME AND DATE: 1:00 p.m., Monday, May 3, 1999

PLACE: Florida Department of Law Enforcement, 2331 Phillips Road, Conference Room, 3rd Floor, Quad C, Tallahassee, Florida

NOTICE UNDER THE AMERICANS WITH DISABILITIES ACT: Persons needing an accommodation to participate in any proceeding should call (850)410-7900 (voice) or (850)656-9597 (TDD), at least five working days before such proceeding.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Fern Rosenwasser, Assistant General Counsel, Office of General Counsel, Florida Department of Law Enforcement, 2331 Phillips Road, Tallahassee, Florida 32308

THE FULL TEXT OF THE PROPOSED RULES IS:

11-1.001 Agency Description.

Specific Authority 120.53, 943.03 FS. Law Implemented 20.201, 120.53, 943.03 FS. History--New 11-28-75, Formerly 11-1.01, Repealed.

11-1.002 Headquarters, Mailing Address, Etc.

Specific Authority 120.53, 943.03 FS. Law Implemented 120.53, 943.03 FS. History--New 11-28-75, Formerly 11-1.02, Repealed.

11-1.003 Department Internal Organization.

Specific Authority 120.53, 943.03 FS. Law Implemented 20.201, 23.122, 23.123, 120.53, 943 FS., Executive Order 75-53 FS. History--New 11-28-75, Amended 1-9-78, Formerly 11-1.03, Repealed.

11-1.004 Powers and Duties of Department.

Specific Authority 120.53, 943.03 FS. Law Implemented 281.20, 120.53, 775.13, 790.164, 943 FS., Executive Order 74-38 FS. History--New 11-28-75, Amended 1-9-78, Formerly 11-1.04, Amended 1-6-91, Repealed.

11-1.0041 Confirmation and Delegation of Authority.

(1) In accordance with Paragraph 20.05(1)(b), F.S., the Executive Director and other officials of the Department of Law Enforcement are hereby authorized to perform or exercise the following statutory powers and duties of the Agency, Department, or Department Head:

(a) The Executive Director or, his designee shall:

1. Supervise, direct, coordinate, and administer the day-to-day duties and functions of the Department in accordance with Subsection 943.03(4), F.S. ~~and other pertinent laws, administrative rules, or policies of the Governor and Cabinet.~~

2. No change.

3. Negotiate, enter into and execute purchases, contracts, leases, lease-purchases, licenses and agreements relating to real, personal and mixed property, services, commodities and capital outlay items with governmental agencies and persons as defined in Section 1.01(3), F.S., and carry out on a day-to-day basis, the operations of the Department. The foregoing authority shall be within current appropriations and shall be in accordance with pertinent statutes and rules of the Department of ~~Management General~~ Services and the Comptroller. The Executive Director shall report all contracts, leases, lease-purchases, licenses, agreements and purchases involving the expenditure of more than ~~\$100,000~~ ~~\$25,000~~ to the Department Head on a quarterly basis.

4. Contract for consultant and professional services, up to ~~\$100,000~~ ~~\$25,000~~. However, selection of consultant and professional services, other than sole source, shall be by procedures in the Consultants Competitive Negotiations Act or other competitive processes established by rule.

5. Establish regional operation centers, field offices, bureaus, and similar entities as necessary to carry out the statutory duties of the Department.

6. through 10. No change.

11. ~~Compromise~~ Comprise and settle, in the best interest of the Department, all claims, actions, causes of action and legal proceedings, whether sounding in tort or contract, that are brought against the Department or any of its employees acting within the scope of their employment. Such compromises and settlements ~~shall be made only in accordance with pertinent laws and rules~~, shall be limited to cases where the total amount paid is less than ~~\$100,000~~ ~~\$25,000~~, and shall be reported to the Governor and Cabinet on at least a quarterly basis.

12. Initiate rulemaking and respond to petitions for declaratory statements, hearings, and departmental rulemaking under Chapter 120; provided, however, the Governor and Cabinet shall approve all Department administrative rules and reserves the prerogative to act as hearing officer in Section 120.57 proceedings involving great public interest or other public agencies. Examples of rulemaking include the following:

a. To initiate rulemaking by publishing a notice of intended action. However, before a notice of intended action is published, the Department must submit the proposed notice including the proposed text to the Governor and each member of the Cabinet. Upon the request of the Governor or any member of the Cabinet, the Department shall submit the proposed rules for action by the Governor and Cabinet at the next available Cabinet meeting. If, after being given 10

working days to review the Department's proposed notice of intended action and rule text, neither the Governor nor any member of the Cabinet notifies the Department of his or her objection to such publication, the Department has authority to proceed to initiate rulemaking pursuant to s. 120.54(3)(a)1., F.S. The power to determine whether proposed rules should be approved for final adoption is hereby reserved to the Governor and Cabinet acting as the head of the Department.

b. To explain in writing why a rule development workshop is unnecessary.

c. To provide methods for making available a description of the agency's organization and general course of operations pursuant to s. 120.54(5)(b)5., F.S.

d. To issue an immediate final order pursuant to s. 120.569(2)(1), F.S., that states the particular facts supporting a finding that there is an immediate danger to the public health, property, or welfare.

e. To issue a written statement pursuant to s. 120.57(3)(c), F.S., explaining why a bid solicitation process or contract award process must be continued without delay due to an immediate and serious danger to the public health, safety, or welfare.

f. Pursuant to s. 120.63(1)(a), F.S., to apply on behalf of the Department and certify to the Administration Commission that a proceeding required by Chapter 120, F.S., conflicts with a provision of federal law or rule.

g. To prepare, certify, and file the rule review report mandated by s. 120.74(2), F.S., with the presiding officers and affected standing committees of the Florida Legislature.

(b) No change.

(c) The ~~Program and Regional Division~~ Directors and other supervisors of the Department shall:

1. Exercise such authority in personnel matters, including discipline, as is authorized by the State Personnel Rules and rules of the Department of ~~Management Services Administration~~ in the following areas:

(d) The person designated as ~~human resource personnel~~ officer of the Department shall:

1. Exercise the authority delegated to the Department by the Department of Administration in the following areas:

- a. Approval of payroll corrections due to clerical errors;
- b. Approval of overlap of positions;
- c. Determination of eligibility for classes unique to the Department (including approval of equivalency);
- d. Approval of out-of-class appointments;
- e. Approval of trainee appointments;
- f. Approval of extensions of provisional status, probationary status, leaves without pay, and compulsory disability leaves.

(e) through (f) No change.

(2) No change.

Specific Authority 943.03(4)(1), (2) FS. Law Implemented 20.05(1)(b), 20.201, 112.061, 120.54, 120.565, 120.569(2), 120.57(1)-(3), 120.63(1), 120.74(2), 216.345, 216.262, Chapter 943 FS., Section 287.042(4) as amended by Section 3, Chapter 80-374, Laws of Florida History--New 1-31-80, Amended 6-29-80, 7-5-81, Formerly 11-1.041, Amended _____.

11-1.005 Relations with Other Officers and Agencies.

Specific Authority 120.53, 255.21(5), 255.25(2)(c), 943.03, 943.05(2) FS. Law Implemented 120.53, 255.21(5), 255.25(2)(c), 943.03, 943.05 FS. History--New 11-28-75, Amended 7-4-79, Formerly 11-1.05, Repealed _____.

11-1.0061 Public Information and Inspection and Copying of Records.

Specific Authority 120.53(1)(a), 943.03(3) FS. Law Implemented 120.53(1)(a), 119.07, 943.03(3) FS. History--New 7-5-82, Formerly 11-1.061, Repealed _____.

11-1.008 Public Business.

Specific Authority 120.53, 943.03 FS. Law Implemented 120.53, 286.011 FS. History--New 11-28-75, Formerly 11-1.08, Repealed _____.

11-1.010 Vouchers.

Specific Authority 943.03 FS. Law Implemented 11.47, 215.42, 216, 943.03 FS. History--New 11-28-75, Formerly 11-1.10, Repealed _____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Fern Rosenwasser, Assistant General Counsel, Florida Department of Law Enforcement

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Michael A. Ramage, General Counsel, Florida Department of Law Enforcement

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: On December 8, 1998, the Governor and Cabinet approved the Department's request to publish this Notice of Proposed Rulemaking

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: The proposed amendments to Rule Chapter 11-1, F.A.C., were noticed for a Rule Development workshop in the Florida Administrative Weekly on November 13, 1998

DEPARTMENT OF LAW ENFORCEMENT

RULE CHAPTER TITLE:	RULE CHAPTER NO.:
Meetings of Governor and Cabinet as Head of Department	11-3
RULE TITLES:	RULE NOS.:
Application of Rules	11-3.001
Membership of Florida Cabinet	11-3.002
Meetings and Notice	11-3.003
Presiding Officer	11-3.004
Quorum	11-3.005
Agendas	11-3.006
Distribution of Agendas	11-3.007
Recording of Proceedings	11-3.008
Minutes	11-3.009
Order of Procedure	11-3.010
Quarterly Reports	11-3.011

Agency Action 11-3.012
 Voting 11-3.013
 Amendment to Rules 11-3.014
 Parliamentary Matters 11-3.015

PURPOSE AND EFFECT: To repeal sections of Rule Chapter 11-3, F.A.C., that describe the meetings of the Governor and Cabinet as head of the Florida Department of Law Enforcement and to comply with the statutory revisions in Chapter 120, F.S.

SUMMARY: To eliminate the administrative rules relating to the meetings of the Governor and Cabinet as head of the Florida Department of Law Enforcement that are redundant, obsolete or superseded by statute or rule.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: None.

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

SPECIFIC AUTHORITY: 120.54(5) FS.

LAW IMPLEMENTED: 120.54 FS.

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

TIME AND DATE: 1:15 p.m., Monday, May 3, 1999

PLACE: Florida Department of Law Enforcement, 2331 Phillips Road, Conference Room, 3rd Floor, Quad C, Tallahassee, Florida

NOTICE UNDER THE AMERICANS WITH DISABILITIES ACT: Persons needing an accommodation to participate in any proceeding should call (850)410-7900 (voice) or (850)656-9597 (TDD), at least five working days before such proceeding.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Fern Rosenwasser, Assistant General Counsel, Office of General Counsel, Florida Department of Law Enforcement, 2331 Phillips Road, Tallahassee, Florida 32308

THE FULL TEXT OF THE PROPOSED RULES IS:

11-3.001 Application of Rules.

Specific Authority 120.53(1),120.54(9) FS. Law Implemented 120.53(1) FS. History–New 4-30-75, Formerly 11-3.01, Repealed.

11-3.002 Membership of Florida Cabinet.

Specific Authority 120.53(1), 120.54(9) FS. Law Implemented 120.53(1) FS. History–New 4-30-75, Formerly 11-3.02, Repealed.

11-3.003 Meetings and Notice.

Specific Authority 120.53(1), 120.54(9) FS. Law Implemented 120.53(1) FS. History–New 4-30-75, Formerly 11-3.03, Repealed.

11-3.004 Presiding Officer.

Specific Authority 120.53(1), 120.54(9) FS. Law Implemented 120.51(1) FS. History–New 4-30-75, Formerly 11-3.04, Repealed.

11-3.005 Quorum.

Specific Authority 120.53(1), 120.54(9) FS. Law Implemented 120.53(1) FS. History–New 4-30-75, Formerly 11-3.05, Repealed.

11-3.006 Agendas.

Specific Authority 120.53(1), 120.54(9) FS. Law Implemented 120.53(1) FS. History–New 4-30-75, Formerly 11-3.06, Repealed.

11-3.007 Distribution of Agendas.

Specific Authority 120.53(1), 120.54(9) FS. Law Implemented 120.53(1) FS. History–New 4-30-75, Formerly 11-3.07, Repealed.

11-3.008 Recording of Proceedings.

Specific Authority 120.53(1), 120.54(9) FS. Law Implemented 120.53(1) FS. History–New 4-30-75, Formerly 11-3.08, Repealed.

11-3.009 Minutes.

Specific Authority 120.53(1), 120.54(9) FS. Law Implemented 120.53(1) FS. History–New 4-30-75, Formerly 11-3.09, Repealed.

11-3.010 Order of Procedure.

Specific Authority 120.53(1), 120.54(9) FS. Law Implemented 120.53(1) FS. History–New 4-30-75, Formerly 11-3.10, Repealed.

11-3.011 Quarterly Reports.

Specific Authority 120.53(1), 120.54(9) FS. Law Implemented 120.53(1) FS. History–New 4-30-75, Formerly 11-3.11, Repealed.

11-3.012 Agency Action.

Specific Authority 120.53(1), 120.54(9) FS. Law Implemented 120.53(1) FS. History–New 4-30-75, Formerly 11-3.12, Repealed.

11-3.013 Voting.

Specific Authority 120.53(1), 120.54(9) FS. Law Implemented 120.53(1) FS. History–New 4-30-75, Formerly 11-3.13, Repealed.

11-3.014 Amendment to Rules.

Specific Authority 120.53(1), 120.54(9) FS. Law Implemented 120.53(1) FS. History–New 4-30-75, Formerly 11-3.14, Repealed.

11-3.015 Parliamentary Matters.

Specific Authority 120.53(1), 120.54(9) FS. Law Implemented 120.53(1) FS. History–New 4-30-75, Formerly 11-3.15, Repealed.

NAME OF PERSON ORIGINATING PROPOSED RULE: Fern Rosenwasser, Assistant General Counsel, Florida Department of Law Enforcement

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Michael A. Ramage, General Counsel, Florida Department of Law Enforcement

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: On December 8, 1998, the Governor and Cabinet approved the Department’s request to publish this notice of proposed rulemaking

DEPARTMENT OF LAW ENFORCEMENT

RULE CHAPTER TITLE: RULE CHAPTER NO.:
Procedural Rules 11-4

RULE TITLES: RULE NOS.:
Model Rules Adopted; Exceptions 11-4.001
Ex Parte Communications 11-4.002
Councils Within Department 11-4.003
Declaratory Statements 11-4.004

PURPOSE AND EFFECT: Rule Chapter 11-4, F.A.C., relating to the procedural rules for the Florida Department of Law Enforcement is repealed to conform to the requirements of s. 120.74, F.S.

SUMMARY: To eliminate the administrative rules relating to model rules, councils within the Department of Law Enforcement and declaratory statements that are redundant, obsolete or superseded by statute or rule.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: None.

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

SPECIFIC AUTHORITY: 120.54(5) FS.

LAW IMPLEMENTED: 120.52, 120.54, 120.565, 120.66 FS.

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

TIME AND DATE: 1:15 p.m., Monday, May 3, 1999

PLACE: Florida Department of Law Enforcement, 2331 Phillips Road, Conference Room, 3rd Floor, Quad C, Tallahassee, Florida

NOTICE UNDER THE AMERICANS WITH DISABILITIES ACT: Persons needing an accommodation to participate in any proceeding should call (850)410-7900 (voice) or (850)656-9597 (TDD), at least five working days before such proceeding.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Fern Rosenwasser, Assistant General Counsel, Office of General Counsel, Florida Department of Law Enforcement, 2331 Phillips Road, Tallahassee, Florida 32308

THE FULL TEXT OF THE PROPOSED RULES IS:

11-4.001 Model Rules Adopted; Exceptions.

Specific Authority 120.53, 120.54, 943.03 FS. Law Implemented 120.53, 120.54, 943.03 FS. History--New 11-28-75, Formerly 11-4.01, Repealed

11-4.002 Ex Parte Communications.

Specific Authority 120.53, 943.03 FS. Law Implemented 120.53, 120.57, 120.66 FS. History--New 11-28-75, Formerly 11-4.02, Repealed

11-4.003 Councils Within Department.

Specific Authority 120.53, 120.54, 943.03 FS. Law Implemented 120.53, 120.54 FS. History--New 11-28-75, Formerly 11-4.03, Repealed

11-4.004 Declaratory Statements.

Specific Authority 120.53, 120.565, 943.03 FS. Law Implemented 120.53, 120.54, 120.565, 120.56 FS. History--New 11-28-75, Formerly 11-4.04, Repealed

NAME OF PERSON ORIGINATING PROPOSED RULE: Fern Rosenwasser, Assistant General Counsel, Office of General Counsel, Florida Department of Law Enforcement

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Michael A. Ramage, General Counsel, Florida Department of Law Enforcement

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: On December 8, 1998, the Governor and Cabinet approved the Department's request to publish this notice of proposed rulemaking

DEPARTMENT OF LAW ENFORCEMENT

RULE CHAPTER TITLE: RULE CHAPTER NO.:
Minority Business Enterprise Procurement 11-5

RULE TITLES: RULE NOS.:
Purpose and Scope 11-5.001
Procurement Goals 11-5.002
Procedures 11-5.003

PURPOSE AND EFFECT: To repeal Rule Chapter 11-5, F.A.C., which regulates the procurement of commodities, contractual services, architectural and construction contracts with certified minority business enterprises to comport with the requirements of s. 120.74, F.S.

SUMMARY: To repeal the administrative rules governing Minority Business Enterprise Procurement. The rule chapter is redundant of s. 287.0943, F.S. and is superseded by Chapter 1S-6, F.A.C.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: None.

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

SPECIFIC AUTHORITY: 287.0943, 943.03(4) FS.

LAW IMPLEMENTED: 287.09431, 943.03(5) FS.

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

TIME AND DATE: 1:15 p.m., Monday, May 3, 1999

PLACE: Florida Department of Law Enforcement, 2331 Phillips Road, Conference Room, 3rd Floor, Quad C, Tallahassee, Florida

NOTICE UNDER THE AMERICANS WITH DISABILITIES ACT: Persons needing an accommodation to participate in any proceeding should call (850)410-7900 (voice) or (850)656-9597 (TDD), at least five working days before such proceeding.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Fern Rosenwasser, Assistant General Counsel, Office of General Counsel, Florida Department of Law Enforcement, 2331 Phillips Road, Tallahassee, Florida 32308

THE FULL TEXT OF THE PROPOSED RULES IS:

11-5.001 Purpose and Scope.

Specific Authority 287.0947(2), 943.03(3) FS. Law Implemented 287.042(4)(f), 287.0945(1), 287.0947 FS. History--New 12-26-89, Repealed.

11-5.002 Procurement Goals.

Specific Authority 287.0947(2), 943.03(4) FS. Law Implemented 287.042(4)(f), 287.0947 FS. History--New 12-26-89, Amended 10-3-93, Repealed.

11-5.003 Procedures.

Specific Authority 287.0947(2), 943.03(4) FS. Law Implemented 287.0947, 287.057(6), 288.705 FS. History--New 12-26-89, Amended 10-3-93, Repealed.

NAME OF PERSON ORIGINATING PROPOSED RULE: Fern Rosenwasser, Assistant General Counsel, Florida Department of Law Enforcement

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Michael A. Ramage, General Counsel, Florida Department of Law Enforcement

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: On December 8, 1998, the Governor and Cabinet approved the Department's request to publish this Notice of Proposed Rulemaking

DEPARTMENT OF LAW ENFORCEMENT

RULE CHAPTER TITLE: Indexing, Management, and Availability of Final Orders

RULE CHAPTER NO.: 11-6

RULE TITLES:	RULE NOS.:
Authority	11-6.001
Purpose	11-6.002
Public Inspection and Duplication	11-6.003
Final Orders Required to be Indexed	11-6.004
Listing of Final Orders	11-6.005
Numbering of Final Orders	11-6.006
System for Indexing Final Orders	11-6.007
Designation of Records Keeper	11-6.008
Maintenance of Records	11-6.009
Plan for Public Access	11-6.010
Format for Final Agency Order	11-6.011

PURPOSE AND EFFECT: Rule Chapter 11-6, F.A.C., which describes the purpose and procedures pertaining to the indexing of Final Agency Orders, is redundant, obsolete or superseded by statute, is repealed. The repeal of these rules is necessary to comport with the statutory requirements of s. 120.74 F.S.

SUMMARY: Rules 11-6.001 through 6.002, F.A.C. describe the purpose and procedures pertaining to the indexing of Final Agency Orders. Per s. 120.53(1)(e)-(h), F.S., these procedures will be included in the Department's Policy and Procedure's Manual. Rules 11-6.002 through 6.011, F.A.C., are redundant, obsolete or superseded by statute, and are repealed.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: None

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

SPECIFIC AUTHORITY: 120.53(1) FS.

LAW IMPLEMENTED: 120.53 FS.

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

TIME AND DATE: 1:15 p.m., Monday, May 3, 1999

PLACE: Florida Department of Law Enforcement, 2331 Phillips Road, Conference Room, 3rd Floor, Quad C, Tallahassee, Florida

NOTICE UNDER THE AMERICANS WITH DISABILITIES ACT: Persons needing an accommodation to participate in any proceeding should call (850)410-7900 (voice) or (850)656-9597 (TDD), at least five working days before such proceeding.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Fern Rosenwasser, Assistant General Counsel, Office of General Counsel, Florida Department of Law Enforcement, 2331 Phillips Road, Tallahassee, Florida 32308

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: On December 8, 1998, the Governor and Cabinet approved the Department's request to publish this notice of proposed rulemaking

THE FULL TEXT OF THE PROPOSED RULES IS:

11-6.001 Authority.

Specific Authority 120.533 FS. Law Implemented 120.53(2)-(4) FS. History--New 8-9-92, Repealed.

11-6.002 Purpose.

Specific Authority 120.533 FS. Law Implemented 120.53(2)-(4) FS. History--New 8-9-92, Repealed.

11-6.003 Public Inspection and Duplication.

Specific Authority 120.533 FS. Law Implemented 120.53(2)(a)1.-5. FS. History--New 8-9-92, Repealed.

11-6.004 Final Orders Required to be Indexed.

Specific Authority 120.533 FS. Law Implemented 120.53(2)(a)3.,(2)(d) FS. History--New 8-9-92, Repealed.

11-6.005 Listing of Final Orders.

Specific Authority 120.533 FS. Law Implemented 120.53(2)(a)4. FS. History--New 8-9-92, Repealed.

11-6.006 Numbering of Final Orders.

Specific Authority 120.533(1)(f) FS. Law Implemented 120.53(2)-(4) FS. History--New 8-9-92, Repealed.

11-6.007 System for Indexing Final Orders.

Specific Authority 120.533(1)(f) FS. Law Implemented 120.53(2)-(4) FS. History--New 8-9-92, Repealed.

11-6.008 Designation of Records Keeper.

Specific Authority 120.533(1) FS. Law Implemented 120.53(4) FS. History--New 8-9-92, Repealed.

11-6.009 Maintenance of Records.

Specific Authority 120.533(1)(j) FS. Law Implemented 119.041(2) FS. History--New 8-9-92, Repealed.

11-6.010 Plan for Public Access.

Specific Authority 120.533(1)(j) FS. Law Implemented 120.53(2) FS. History--New 8-9-92, Repealed.

11-6.011 Format for Final Agency Order.

Specific Authority 120.533(1)(b),(i)(j) FS. Law Implemented 120.53(2) FS. History--New 8-9-92, Repealed.

NAME OF PERSON ORIGINATING PROPOSED RULE: Fern Rosenwasser, Assistant General Counsel, Office of General Counsel, Florida Department of Law Enforcement
 NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Michael A. Ramage, General Counsel, Florida Department of Law Enforcement

DEPARTMENT OF LAW ENFORCEMENT

Division of Criminal Justice Standards and Training

RULE CHAPTER TITLE: Criminal Justice Standards and Training Commission

RULE CHAPTER NO.: 11A-1

RULE TITLES: Division Director

RULE NOS.: 11A-1.001

Division Organization and Duties

11A-1.002

Division Director

11A-1.003

Bureau of Standards

11A-1.004

Bureau of Training

11A-1.005

Policies and Procedures

11A-1.006

PURPOSE AND EFFECT: Rule Chapter 11A-1, F.A.C., of the procedural rules for the Florida Department of Law Enforcement is repealed to conform to the requirements of Section 120.74, F.S. To eliminate administrative rules that are redundant, obsolete, or superseded by statute or rule.

SUMMARY: This proposed rule repeals Rule Chapter 11A-1, F.A.C., Division of Criminal Justice Standards and Training, which addresses the organization of the Criminal Justice Professionalism Program concerning the Division Director, Division Organization and Duties, the Director's Office, the Bureau of Standards, the Bureau of Training and the Commission's policies and procedures.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: None.

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

SPECIFIC AUTHORITY: 943.03(4) FS.

LAW IMPLEMENTED: 120.74 FS.

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

TIME AND DATE: 5:15 p.m., May 3, 1999

PLACE: 2331 Phillips Road, Elevator Conference Room, Quad C, 3rd Floor, Tallahassee, Florida 32308-1489

NOTICE UNDER THE AMERICANS WITH DISABILITIES ACTS: Please contact Donna Hunt, Florida Department of Law Enforcement, Criminal Justice Professionalism Program, 2331 Phillips Road, Tallahassee, Florida 32308-1489.

Pursuant with the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this program, please advise the Department at least 2 weeks prior to the workshop by contacting Donna Hunt at TDD#: (850)656-9597.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Donna Hunt, Florida Department of Law Enforcement, Criminal Justice Professionalism Program, 2331 Phillips Road, Tallahassee, Florida 32308-1489, (850)410-8615

THE FULL TEXT OF THE PROPOSED RULES IS:

11A-1.001 Division Director.

Specific Authority 120.53, 943.03 FS. Law Implemented 120.53, 943.09 FS. History--New 11-28-75, Formerly 11A-1.01, Repealed.

11A-1.002 Division Organization and Duties.

Specific Authority 120.53, 943.03 FS. Law Implemented 20.201, 120.53, 943.09 FS. History--New 11-28-75, Formerly 11A-1.02, Amended 12-13-92, Repealed.

11A-1.003 Director's Office.

Specific Authority 943.03 FS. Law Implemented 943.09 FS. History--New 12-13-92, Repealed.

11A-1.004 Bureau of Standards.

Specific Authority 943.03 FS. Law Implemented 943.09 FS. History--New 12-13-92, Repealed.

11A-1.005 Bureau of Training.

Specific Authority 943.03 FS. Law Implemented 943.09 FS. History--New 12-13-92, Repealed.

11A-1.006 Policies and Procedures.

Specific Authority 943.12 FS. Law Implemented 943.12 FS. History--New 12-13-92, Amended 9-14-93, 4-25-94, Repealed.

NAME OF PERSON ORIGINATING PROPOSED RULE: OMCI Donna Hunt, FDLE, Criminal Justice Professionalism Program

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Program Director A. Leon Lowry, II, FDLE, Criminal Justice Professionalism Program

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: December 8, 1998

DEPARTMENT OF LAW ENFORCEMENT

Division of Criminal Justice Standards and Training

RULE CHAPTER TITLE:	RULE CHAPTER NO.:
General Organization	11A-6
RULE TITLES:	RULE NOS.:
History and Purpose	11A-6.001
General Description of Agency Organization and Operation	11A-6.0011
Agency Head	11A-6.004
Public Information and Inspection of Records	11A-6.005

Notice of Rulemaking Procedure	11A-6.006
Quorum	11A-6.007
Meetings	11A-6.008
Notice of Meetings	11A-6.009
Emergency Meetings	11A-6.010
Declaratory Statement	11A-6.014
Agenda	11A-6.015

PURPOSE AND EFFECT: Rule Chapter 11A-6 of the procedural rules for the Florida Department of Law Enforcement is repealed to conform to the requirements of Section 120.74, F.S. To eliminate administrative rules that are redundant, obsolete, or superceded by statute or rule.

SUMMARY: This proposed rule repeals Rule Chapter 11A-6, F.A.C., Division of Criminal Justice Standards and Training Commission, which addresses the organization of the Criminal Justice Standards and Training Commission concerning the general organization, history and purpose, general description of agency organization and operation, agency head, public information and inspection of records, notice of rulemaking procedures, Commission quorum, meetings, notice of meetings, emergency meetings, workshops and agenda, and declaratory statement.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: None.

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

SPECIFIC AUTHORITY: 943.03(4) FS.

LAW IMPLEMENTED: 120.74 FS.

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

TIME AND DATE: 5:30 p.m., May 3, 1999

PLACE: 2331 Phillips Road, Elevator Conference Room, Quad C, 3rd Floor, Tallahassee, Florida 32308-1489

NOTICE UNDER THE AMERICANS WITH DISABILITIES ACTS: Please contact Donna Hunt, Florida Department of Law Enforcement, Criminal Justice Professionalism Program, 2331 Phillips Road, Tallahassee, Florida 32308-1489.

Pursuant with the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this program, please advise the Department at least 2 weeks prior to the workshop by contacting Donna Hunt at TDD#: (850)656-9597.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Donna Hunt, Florida Department of Law Enforcement, Criminal Justice Professionalism Program, 2331 Phillips Road, Tallahassee, Florida 32308-1489, (850)410-8615

THE FULL TEXT OF THE PROPOSED RULES IS:

11A-6.001 History and Purpose.

Specific Authority 120.53(1) FS. Law Implemented 120.53(1) FS. History--New 7-21-82, Formerly 11A-6.01, Repealed.

11A-6.0011 General Description of Agency Organization and Operation.

Specific Authority 120.53(1) FS. Law Implemented 120.53(1) FS. History--New 7-21-82, Formerly 11A-6.011, Amended 12-13-92, Repealed.

11A-6.004 Agency Head.

Specific Authority 120.53(1) FS. Law Implemented 120.53(1) FS. History--New 7-21-82, Formerly 11A-6.04, Repealed.

11A-6.005 Public Information and Inspection of Records.

Specific Authority 120.53(1) FS. Law Implemented 120.53(1) FS. History--New 7-21-82, Formerly 11A-6.05, Amended 12-13-92, Repealed.

11A-6.006 Notice of Rulemaking Procedure.

Specific Authority 120.53(1) FS. Law Implemented 943.11(2) FS. History--New 7-21-82, Formerly 11A-6.06, Repealed.

11A-6.007 Quorum.

Specific Authority 120.53(1) FS. Law Implemented 943.11(2) FS. History--New 7-21-82, Formerly 11A-6.07, Repealed.

11A-6.008 Meetings.

Specific Authority 120.53(1) FS. Law Implemented 943.11(2) FS. History--New 7-21-82, Formerly 11A-6.08, Repealed.

11A-6.009 Notice of Meetings.

Specific Authority 120.53(1) FS. Law Implemented 120.53(1) FS. History--New 7-21-82, Formerly 11A-6.09, Repealed.

11A-6.010 Emergency Meetings.

Specific Authority 120.53(1) FS. Law Implemented 120.53(1) FS. History--New 7-21-82, Formerly 11A-6.10, Amended 12-13-92, Repealed.

11A-6.011 Declaratory Statement.

Specific Authority 120.565 FS. Law Implemented 120.565 FS. History--New 7-21-82, Formerly 11A-6.11, Amended 12-13-92, Repealed.

11A-6.014 Workshops.

Specific Authority 120.53(1) FS. Law Implemented 120.53(1) FS. History--New 7-21-82, Formerly 11A-6.14, Repealed.

11A-6.015 Agenda.

Specific Authority 120.53(1) FS. Law Implemented 120.53(1) FS. History--New 7-21-82, Formerly 11A-6.15, Amended 12-13-92, Repealed.

NAME OF PERSON ORIGINATING PROPOSED RULE:
OMCI Donna Hunt, FDLE, Criminal Justice Professionalism Program

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Program Director A. Leon Lowry, II, FDLE, Criminal Justice Professionalism Program

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: December 8, 1998

DEPARTMENT OF LAW ENFORCEMENT

Criminal Justice Standards and Training Commission

RULE CHAPTER TITLE: Salary Incentive Program
RULE CHAPTER NO.: 11B-14

RULE TITLES: Definitions
RULE NOS.: 11B-14.001

General Program Provisions 11B-14.002
Authorized Payments 11B-14.003

PURPOSE AND EFFECT: The purpose and effect of the proposed rule revisions are to add and correct statute and rule references; to incorporate grammatical revisions; to clarify current rule language; to revise the Commission-approved training institution listing regarding institutions allowed to deliver Specialized Training Programs for Advanced Training and Salary Incentive credit; to clarify rule language concerning written request for salary incentive credit; to comply with 1998 Legislation amending s. 943.09, F.S., changing the name of the "Division of Criminal Justice Standards and Training" to the "Criminal Justice Professionalism Program"; and to comply with 1998 Legislation amending s. 943.10(12), F.S., changing the reference of "Division" to "Program." Pursuant with s. 943.09, F.S., program staff are also Commission staff who support the Commission, therefore the reference to "Division" has been changed in Rule Chapter 11B-14 to "Commission staff"; to remove rule language requiring Commission staff to issue an employing agency documentation that identifies the amount of educational salary incentive monies an officer is eligible to receive and the effective date payment begins; to allow form CJSTC-63 to be submitted or the information on the form electronically transmitted through the ATMS2 system; to clarify the documentation process for receipt of Salary Incentive monies; and to clarify the documentation process to begin receipt of Salary Incentive monies.

SUMMARY: Rule Chapter 11B-14, F.A.C., is being revised to incorporate housekeeping revisions due to Legislative amendments to Chapter 943, F.S., to inform agencies of specific forms that can be electronically submitted, to inform agencies of documentation required for enrollment and receipt of Salary Incentive monies, and to revise rule language and implement new policy regarding the Salary Incentive Program.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: None.

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

SPECIFIC AUTHORITY: 943.03(4), 943.12(1), 943.22(2)(h) FS.

LAW IMPLEMENTED: 943.22 FS.

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

TIME AND DATE: 3:30 p.m., May 3, 1999

PLACE: 2331 Phillips Road, Elevator Conference Room, Quad C, 3rd Floor, Tallahassee, Florida 32308-1489

NOTICE UNDER THE AMERICANS WITH DISABILITIES ACTS: Please contact Donna Hunt, Florida Department of Law Enforcement, Criminal Justice Professionalism Program, 2331 Phillips Road, Tallahassee, Florida 32308-1489.

Pursuant with the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this program, please advise the Department at least 2 weeks prior to the workshop by contacting Donna Hunt at TDD#: (850)656-9597.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Donna Hunt, Florida Department of Law Enforcement, Criminal Justice Professionalism Program, 2331 Phillips Road, Tallahassee, Florida 32308-1489, (850)410-8615

THE FULL TEXT OF THE PROPOSED RULES IS:

11B-14.001 Definitions.

For the purpose of this rule chapter, the definitions of "employing agency," "law enforcement officer," "correctional officer," "correctional probation officer," and "Commission," pursuant to s. 943.10, F.S., and the definitions of "community college degree or equivalent," "bachelor's degree," and "accredited college or university or community college," pursuant to s. 943.22, F.S., shall be deemed controlling. The definition of "law enforcement officer" also includes those elected officers who, pursuant to s. 943.253, F.S., choose to participate in the Salary Incentive Program. In addition, Also, for the purpose of this rule chapter, the term "officer" is limited to include "law enforcement officer," "correctional officer," or "correctional probation officer," pursuant to Section 943.10(14), F.S. as defined in this rule. Further, in order to provide effectively for the administration of the Salary Incentive Program, certain additional definitions are necessary; therefore, the following words or phrases shall have these meanings ~~unless the context otherwise requires:~~

(1) "Career Development Training Course" means any course in the Career Development Training Program approved by the Commission and consisting of advanced or technical training. On and after July 1, 1985, the definition shall be, "those courses related to promotion to a higher rank or position," pursuant to Section 943.17(1)(c), F.S.

(2) "Advanced Training Course" on or after July 1, 1985, means, "a course in the Advanced Training Program approved by the Commission," which enhances an officer's knowledge, skills, and abilities for the job performed, pursuant to Section 943.17(1)(b), F.S.

(3) "Reporting Document" means, "a computerized report prepared annually," ~~that which~~ lists for each agency the name of its officers, date of employment, and correct monthly

payments by the type of salary incentive ~~that~~ an officer is eligible to receive, and contains the required signature lines, pursuant to Section 943.22(2)(i), F.S.

Specific Authority 943.03(4), 943.12(1), 943.22(2)(h) FS. Law Implemented 943.22 FS. History--New 8-19-72, Repromulgated 1-5-75, Amended 1-13-81, 5-16-83, 9-1-83, 1-7-85, Formerly 11B-14.01, Amended 7-13-87, 9-3-87, 12-13-92, 1-2-97.

11B-14.002 General Program Provisions.

(1) The Salary Incentive Program shall not be used to circumvent any current or planned annual base salary increases, pursuant to 943.22(2)(g), F.S. Additionally, agency financial records shall be maintained to separately identify so that gross salary and salary incentive payments ~~can be identified separately.~~

(2) Section 943.22(2)(i), F.S., requires an employing agency, defined in 11B-14.001, F.A.C., to submit reports annually containing that contain information that which is applicable to the compensation of its full-time officers. This provision shall be satisfied by preparation of a report by Commission staff for submission a report prepared by the Commission and available to each agency for agency review and validation. This report shall be submitted to Commission staff the Division with any additions, deletions, and corrections, and shall be signed by the agency fiscal agent, chief administrator, or their designees.

(3) All Commission-approved Career Development Training Courses, effective on or after July 1, 1985, that are Commission-approved Advanced Training Courses, pursuant to Section 943.17 or 943.25, F.S., and have been successfully completed by eligible officers, shall will be certified ~~to the Division~~ by the training center director for submission to Commission staff by completing a using the Commission's Training Report form, CJSTC-67, revised February 18, 1998, effective November 1996, hereby incorporated by reference, pursuant to the Criminal Justice Standards and Training Commission Policies and Procedures Manual, revised January 1999, hereby incorporated by reference. Effective September 1, 1998, the information on the CJSTC-67 form is required to be electronically transmitted via the Commission's Automated Training Management System (ATMS2). A copy of the Training Report form showing successful completion of an approved course; may be used utilized as the verifying document documentation to authorize payment of appropriate training salary incentive monies.

(4) To avoid redundant training and to ~~duly~~ acknowledge training ~~that which~~ is ~~clearly~~ equal to the training programs established pursuant to Section 943.17, F.S., Commission staff shall the Division will, to the exclusion of no other programs, award 40 hours of advanced training credit for each ~~complete~~ 40-hour week of criminal justice executive or management training successfully completed; and approved by the Commission, for programs conducted at the Federal Bureau of Investigation's National Academy, the Federal Bureau of

Investigation's National Executive Institute, the Southern Police Institute, the National Institute of Corrections, the Police Executive Institute, the National Sheriffs Institute, the Northwestern Traffic Institute (long course), the Federal Bureau of Prisons, the Institute for Police Technology Management, the Florida Criminal Justice Executive Institute (FDLE Senior Leadership Program), and the Senior Management Institute for Police. Officers who request desiring to receive salary incentive credit for a program listed herein, under this provision shall make their request to Commission staff the Division, in writing, accompanied by a written request for salary incentive credit from the officer's agency administrator and a copy of the officer's certificate of course completion the necessary supporting documentation. Commission staff shall The Division will evaluate the request and determine whether the program in question qualifies for training salary incentive monies.

(5) All claimed eligibility for educational salary incentives; ~~shall will~~ be ~~reported forwarded~~ to Commission staff the Division by the employing agency by submitting utilizing an official Higher Education Report form; CJSTC-63, revised October 27, 1998, effective November 1996, hereby incorporated by reference. The information on the CJSTC-63 form may be electronically submitted via the Commission's Automated Training Management System (ATMS2). The employing agency shall obtain an official sealed transcript directly from the educational institution conferring the degree, or providing the academic credit for successful completion of courses. Upon receipt and review of the Higher Education Report form, CJSTC-63, the Division will issue the employing agency a document, on behalf of the Commission, which will identify the amount of educational salary incentive monies the officer is eligible to receive, and the effective date of payment. The employing agency ~~shall will~~ not forward the transcript to Commission staff the Division.

(6) Salary incentive payments shall begin commence on or after the date of eligibility, ~~as specified in the documentation authorizing salary incentive payments, and~~ the payments, ~~which~~ shall be determined as follows:

(a) The date ~~of indicating~~ successful completion of an approved training course indicated reflected on a copy of the ~~Commission's~~ Training Report form; CJSTC-67, issued by the training school, or the date of certification for employment, whichever is dated later.

(b) The date indicated on a Commission-approved training certificate, or the date of certification for employment, whichever is later.

(c) For educational salary incentive, the date indicated as specified on the transcript approval or certification for employment, whichever is later.

(d) No other date shall be used to calculate utilized in calculating salary incentive monies, ~~and~~

(3) Pursuant ~~pursuant~~ to Section 943.22(2)(f), F.S., retroactive payments are not authorized.

(7) Educational salary incentive payments shall not be provided to ~~Florida~~ state officers whose class specifications require a minimum of a four-year degree or higher, pursuant to Section 943.22(2)(e), F.S.

(8) Salary incentive payments paid to officers employed by the State of Florida state officers shall begin in the first full calendar month following the initial date of eligibility.

(9) Initial salary incentive payments made to local officers shall be paid by one of the following methods:

(a) Pro-rated for the initial month of eligibility; or

(b) No payment for the initial month of eligibility.

(10) When an officer is suspended without pay, or takes any leave of absence without pay, the salary incentive payment for the month in which the suspension or leave of absence occurs; shall be pro-rated by the number of days or hours paid within the pay period. Salary incentive payments for subsequent months shall be withheld. When the officer returns to employment, salary incentive payments shall will resume and continue in a normal fashion, beginning on the date the officer returns of return to employment.

(11) Salary incentive payments paid to separating state and local officers shall be pro-rated by the number of days or hours worked within the month of separation separating month.

(12) The officer's training record; maintained by Commission staff the Commission, shall reflect the officer's eligibility for salary incentive monies. Eligibility for educational salary incentive monies, for those officers whose class specifications do not require a minimum of a 4-year degree or higher, shall be transferable regardless of the discipline in which the officer obtains employment. Salary incentive monies for Advanced Training Courses are transferable from one discipline to another; excluding correctional probation officers. For advanced training courses, salary incentive monies are transferable from one discipline to another.

(13) At the request of an employing agency, Commission staff shall the Division will verify any documents an officer submits for training salary incentive monies and the amount of training salary incentive monies the officer is eligible to receive. The agency is responsible for ensuring that the documents submitted for educational salary incentive monies are authentic; and accurately reflect the credit given for academic courses successfully completed by the officer.

(14) In the event a state agency is not making the required salary incentive payment to any eligible officer, the Commission shall notify the Executive Office of the Governor of the discrepancy and request that appropriate action be taken to ensure compliance, pursuant to Section 943.22(2)(j), F.S.

(15) Sheriffs eligible to qualify for special qualification salary, pursuant to Section 943.253, F.S.; and Section 145.071, F.S., can request salary incentive payment pursuant to Section

943.22(2)(d), F.S., and shall be entitled to salary incentive credits under the programs provided in paragraph (4) of this rule section. However, any executive or management courses completed utilized to satisfy the requirements of Section 145.071, F.S., regarding special qualification salary for sheriffs, shall not also be credited for salary incentive payments. Commission staff The Division shall provide sheriffs with documentation that verify documents verifying the number of hours credited for salary incentive payments, pursuant to Section 943.22(2)(d), F.S., and the number of hours credited toward towards continuing education pursuant to Section 145.071(2)(c), F.S.

(16) All forms referenced in this rule chapter may be obtained by contacting the Florida Department of Law Enforcement, Criminal Justice Professionalism Program Division of Criminal Justice Standards and Training, Post Office Box 1489, Tallahassee, Florida 32302-1489, Attention: Director's Office, Forms Liaison.

Specific Authority 943.03(4), 943.12(1), 943.22(2)(h) FS. Law Implemented 943.22 FS. History--New 10-16-78, Amended 9-11-79, 1-13-81, 5-16-83, 1-7-85, Formerly 11B-14.02, Amended 7-13-87, 9-3-87, 5-23-88, 5-14-92, 12-13-92, 1-2-97, _____.

11B-14.003 Authorized Payments.

Full-time law enforcement, correctional, and correctional probation officers satisfying the certification requirements of Chapter 943, F.S., who are not excluded from eligibility pursuant to Section 943.22, F.S. deemed ineligible by law, and who make application for and are issued certification, shall be eligible to participate in the Salary Incentive Program.

(1) Pursuant to Section 943.22(2)(a), F.S., the sum of \$25 each month for basic salary incentive monies shall be paid to a full-time law enforcement, or a concurrently certified officer, who was previously eligible to receive such payments. Additionally, upon the reactivation of certification, any individual person eligible, as specified in this paragraph, shall again be entitled to basic salary incentive monies. A No correctional or correctional probation officer, regardless of his/her date of employment or certification, shall not be entitled to basic salary incentive monies, regardless of their employment or certification date.

(2) Pursuant to Section 943.22(2)(b)(c), F.S., the maximum amount of educational salary incentive monies an officer may receive shall be limited to \$80 each month.

(3) Pursuant to Section 943.22(2)(d), F.S., officers shall receive the sum of \$20 each month for each 80-hour unit of Advanced or Career Development Training successfully completed. Commission staff shall The Division will recognize, only once, the successful completion of any specific a training course, only once, for training salary incentive monies.

(4) Pursuant to Section 943.22(2)(e), F.S., (the maximum aggregate amount allowed under the provisions of the Salary Incentive Program, shall be limited to \$130 each month.

Specific Authority 943.03(4), 943.12(1), 943.22(2)(h) FS. Law Implemented 943.22 FS. History--New 9-11-79, Amended 1-13-81, 5-16-83, 9-1-83, 4-26-84, 1-7-85, Formerly 11B-14.03, Amended 7-13-87, 1-2-97, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: OMCI Donna Hunt, FDLE, Criminal Justice Professionalism Program

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Program Director A. Leon Lowry, II, FDLE, Criminal Justice Professionalism Program

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: December 8, 1998

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN THE FAW: November 13, 1998

DEPARTMENT OF LAW ENFORCEMENT

Criminal Justice Standards and Training Commission

RULE CHAPTER TITLE: Criminal Justice Standards and Training Trust Fund

RULE CHAPTER NO.:

11B-18

RULE TITLES: Operational Definitions

RULE NOS.:

Regional Training Areas

11B-18.003

Establishment of Regional Training Councils

11B-18.004

Regional Training Council Meetings

11B-18.005

Development of Budgets

11B-18.0051

Expenditure of Funds

11B-18.0052

Reports

11B-18.007

Areas of Responsibility

11B-18.0071

Applicability, Contractual Obligations

11B-18.008

PURPOSE AND EFFECT: The purpose and effect of the proposed rule revisions are to add and correct statutory references; to clarify current rule language; to incorporate grammatical revisions; to comply with Section 943.10, F.S., regarding correct name references; to comply with 1998 Legislation amending Section 943.09, F.S., changing the name of the "Division of Criminal Justice Standards and Training," to the "Criminal Justice Professionalism Program"; to comply with 1998 Legislation amending Section 943.10(12), F.S., changing the reference of "Division" to "Program." Pursuant to Section 943.09, F.S., program staff are also considered Commission staff who support the Commission, therefore the reference to "Division" has been changed in Rule Chapter 11B-18, F.A.C., to "Commission staff"; to comply with Section 943.10, F.S., regarding the correct name for training schools when referring to trust funds, i.e., "Public certified criminal justice training schools"; to add definitions to Rule 11B-18.003, F.A.C.; to revise state agency names referred to in Rule 11B-18.005, F.A.C.; to revise the composition of Local Regional Training Council, to define reporting periods for trust fund reports; and to add form names, numbers, and form dates.

SUMMARY: Rule Chapter 11B-18, F.A.C., is being revised to incorporate housekeeping revisions due to Legislative revisions, to comply with Chapter 943, F.S. regarding

definitions, and to revise rule language and implement new policy regarding regional training areas, Regional Training Councils, expenditure of trust funds, trust fund reports, and the responsibility of Regional Training Councils.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: None.

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

SPECIFIC AUTHORITY: 943.03(4), 943.12(1), 943.25(4),(5) FS.

LAW IMPLEMENTED: 943.10, 943.25, 943.25(5) FS.

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

TIME AND DATE: 3:45 p.m., May 3, 1999

PLACE: 2331 Phillips Road, Elevator Conference Room, Quad C, 3rd Floor, Tallahassee, Florida 32308-1489

NOTICE UNDER THE AMERICANS WITH DISABILITIES ACTS: Please contact Donna Hunt, Florida Department of Law Enforcement, Criminal Justice Professionalism Program, 2331 Phillips Road, Tallahassee, Florida 32308-1489.

Pursuant with the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this program, please advise the Department at least 2 weeks prior to the workshop by contacting Donna Hunt at TDD#: (850)656-9597.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Donna Hunt, Florida Department of Law Enforcement, Criminal Justice Professionalism Program, 2331 Phillips Road, Tallahassee, Florida 32308-1489, (850)410-8615

THE FULL TEXT OF THE PROPOSED RULES IS:

11B-18.003 Operational Definitions.

For the purpose of this rule chapter, the definitions of "Auxiliary Law Enforcement Officer," "Auxiliary Correctional Officer," "Auxiliary Correctional Probation Officer," "Commission," "Correctional Officer," "Criminal Justice Training School," "Commission staff," "Program," "Division," "Employing Agency," "Law Enforcement Officer," "Officer," "Part-time Law Enforcement Officer," "Part-time Correctional Officer," "Part-time Correctional Probation Officer," "Private Criminal Justice Training School," "Public Criminal Justice Training School," "Support Personnel," and "Training Center Director," pursuant to Section 943.10, F.S., shall be deemed controlling. The operational definitions are as follows:

(1) "Advanced Training Program" means ~~that~~ curriculum approved by the Commission ~~that which~~ is limited to ~~those~~ courses enhancing an officer's knowledge, skills, and abilities for the job an officer ~~he/she~~ performs; pursuant to Section 943.17(1)(b), F.S.

(2) "Budget Amendment" means a transfer of funds from one budget category to another budget category within an approved regional training budget.

(3) "Budget Cycle" means the process and procedure for the development, preparation, review, approval, implementation, or execution of a regional training budget, and is identified with a fiscal year beginning July 1, and ending June 30 of the following calendar year.

(4) "Regional Training Council" means a Local Regional Training Council or a State Regional Training Council established in this rule chapter ~~Rule Chapter 11B-18, F.A.C.,~~ and pursuant to Section 943.25(5)(6), F.S.

(5) "Criminal Justice Standards and Training Trust Fund" means the fund ~~which is~~ established by the Legislature to provide approved Advanced and Specialized Training for law enforcement, correctional, and correctional probation officers, and provide enhancements to Commission-certified public criminal justice training schools ~~enhancements~~ when approved by the Legislature, pursuant to Section 943.25(2), F.S.

(6) "Department" means the Florida Department of Law Enforcement pursuant to Section 943.02(1), F.S.

(7) "Distribution Formula" means the formula established in this rule chapter ~~that which~~ is used to calculate the an ~~appropriate~~ distribution of trust fund monies to the training regions; pursuant to Section 943.25(5)(6)(b), F.S.

(8) "Encumbered Funds" means those funds ~~that which~~ have been obligated during a given fiscal year by proper execution of a purchase order; or ~~some~~ other formal agreement that which is enforceable as a contract for disbursement of those funds ~~to disburse money~~.

(9) "Fiscal Year" means July 1 of one year through June 30 of the next year.

(10) "Local Regional Training Council" means a the ~~Regional Training Councils~~ established pursuant to Section 943.25(5)(6), F.S., and is are composed of representatives of Commission-certified public criminal justice training schools, and law enforcement and correctional agencies within a region.

(11) "Operating Budget" means an approved regional budget that includes proposed expenditures for a given fiscal year in the categories of administrative expenditures, training costs, and operating capital outlay.

(12) "Personal Property" means all things other than real property ~~that which~~ are subject to ownership.

(13) "Programmatic Change" means any change made within a budget category.

(14) "Real Property" means land, and; generally; whatever is erected or growing upon or affixed to the land.

(15) "Reciprocal Payment" means reimbursement to a region for the expense of training a trainee from another region pursuant to Section 943.25(6)(a), F.S.

(16) "~~Regional~~ Fiscal Agent" means the person(s) appointed by a Commission-certified criminal justice training school, regional training council, who is responsible for providing fiscal assistance and expertise to the Rregional Ttraining C council(s) and school(s). The fiscal agent is responsible for all records, accountings, and other materials; or information regarding trust fund expenditures.

(17) "Specialized Training" means those courses approved by the Commission for trust fund expenditures; that which are developed and sponsored by a the Commission-certified public criminal justice training school, and that demonstrates job relevance, instructional quality, and demonstrate training needed at the local level.

(18) "State Regional Training Councils" means the two (2) training councils, one (1) of which is comprised of representatives from state law enforcement agencies, and the other from the Florida Department of Corrections.

(19) "Year End Fiscal Report" means the report prepared at the close of the budget cycle, which and is used to advise Commission staff the Division and the Commission of all expended, encumbered, and unexpended funds within the operating budget.

(20) "Commission-approved expenditure formula" means the formula established by the Commission for the expenditure of a training region's budget.

(21) "Emergency Budget Amendment" means a transfer of funds from one budget category to another budget category, which requires a revision to the Commission-approved expenditure formula.

Specific Authority 943.03(4), 943.12(1) FS. Law Implemented 943.10, 943.25(2) FS. (Supp. 1998), History—New 1-13-81, Amended 7-28-82, 1-26-83, 1-7-85, 1-28-86, Formerly 11B-18.03, Amended 7-13-87, 5-23-88, 12-13-92, 1-2-97, _____.

11B-18.004 Regional Training Areas.

For the purposes of Criminal Justice Standards and Training Trust Fund activities, there are established the following sixteen (16) regional training areas:

(1) Region I: —~~Escambia, Santa Rosa, Okaloosa, Walton, State's Attorney (First Judicial Circuit), and University of West Florida.~~

(a) Criminal justice agencies within Escambia, Santa Rosa, Okaloosa, and Walton counties, and the State Attorney's Office for the First Judicial Circuit.

(b) Commission-certified public criminal justice training schools within Region I: George Stone Area Vo-Tech Criminal Justice Training Center and Okaloosa-Walton Community College Criminal Justice Training Center.

(2) Region II: —~~Holmes, Washington, Bay, Jackson, Calhoun, Gulf, and State's Attorney (Fourteenth Judicial Circuit).~~

(a) Criminal justice agencies within Holmes, Washington, Bay, Jackson, Calhoun, and Gulf counties, and the State Attorney's Office for the Fourteenth Judicial Circuit.

(b) Commission-certified public criminal justice training schools within Region II: Chipola Junior College Criminal Justice Training Center, Gulf Coast Community College Criminal Justice Training Academy, and Washington-Holmes Technical Center Criminal Justice Program.

(3) Region III: —~~Gadsden, Liberty, Franklin, Leon, Wakulla, Jefferson, State's Attorney (Second Judicial Circuit), Florida A&M University, Florida State University, Forensic Security, and Department of Health and Rehabilitative Services.~~

(a) Criminal justice agencies within Gadsden, Liberty, Franklin, Leon, Wakulla, and Jefferson counties, and the State Attorney's Office for the Second Judicial Circuit.

(b) Public criminal justice training school within Region III: Lively Area Vo-Tech School/Pat Thomas Law Enforcement Academy.

(4) Region IV: —~~Madison, Taylor, Hamilton, Suwannee, Lafayette, Dixie, Columbia, Gilchrist, Baker, Union, Bradford, Alachua, State's Attorney (Third and Eighth Judicial Circuits), University of Florida, Forensic Security, and Department of Health and Rehabilitative Services.~~

(a) Criminal justice agencies within Madison, Taylor, Hamilton, Suwannee, Lafayette, Dixie, Columbia, Gilchrist, Baker, Union, Bradford, and Alachua counties, and the State Attorney's Office for the Third and Eighth Judicial Circuits.

(b) Commission-certified public criminal justice training schools within Region IV: Lake City Community College Criminal Justice Division, North Florida Community College Criminal Justice Academy, and Santa Fe Community College Institute of Public Safety.

(5) Region V: —~~Nassau, Duval, Clay, Putnam, St. Johns, Flagler, (excluding Flagler County Sheriff's Office, Flagler Beach Police Department and Bunnell Police Department), State's Attorney (Fourth Judicial Circuit), and University of North Florida.~~

(a) Criminal justice agencies within Nassau, Duval, Clay, Putnam, and St. Johns counties, and the State Attorney's Office for the Fourth Judicial Circuit.

(b) Commission-certified public criminal justice training schools within Region V: Florida Community College at Jacksonville/Northeast Florida Criminal Justice Training and Education Center, St. Johns Community College, and St. Augustine Technical Center/Criminal Justice Training Academy.

(6) Region VI: —~~Levy, Citrus, Hernando (excluding the Hernando County Sheriff's Office), Marion, Sumter, and State's Attorney (Fifth Judicial Circuit).~~

(a) Criminal justice agencies within Levy, Citrus, Hernando (excluding the Hernando County Sheriff's Office), Marion, and Sumter counties, and the State Attorney's Office for the Fifth Judicial Circuit.

(b) Commission-certified public criminal justice training schools within Region VI: Central Florida Community College Criminal Justice Institute and Withlacoochee Vocational Technical Institute/Criminal Justice Training Academy.

~~(7) Region VII: —Lake, Volusia, Seminole, Orange, Osceola, Brevard, Flagler County Sheriff's Office, Flagler Beach Police Department and Bunnell Police Department, State's Attorney (Seventh, Ninth, and Eighteenth Judicial Circuits), and University of Central Florida.~~

(a) Criminal justice agencies within Lake, Volusia, Seminole, Orange, Osceola, Brevard, and Flagler counties, and the State Attorney's Office for the Seventh, Ninth, and Eighteenth Judicial Circuits.

(b) Commission-certified public criminal justice training schools within Region VII: Brevard Community College Criminal Justice Division, Criminal Justice Institute at Valencia Community College, Daytona Beach Community College Criminal Justice Training Center, Criminal Justice Academy of Osceola, Kenneth A. Bragg Regional Public Safety Training Complex at Tavares, and Seminole Community College Criminal Justice Institute.

~~(8) Region VIII: —Polk, Hardee, DeSoto, Highlands, and State's Attorney (Tenth Judicial Circuit).~~

(a) Criminal justice agencies within Polk, Hardee, DeSoto, and Highlands counties, and the State Attorney's Office for the Tenth Judicial Circuit.

(b) Commission-certified public criminal justice training schools within Region VIII: Polk Community College Criminal Justice Division and South Florida Community College Criminal Justice Academy.

~~(9) Region IX: —Pasco, Pinellas, Hillsborough, Manatee, Hernando County Sheriff's Office, State's Attorney (Sixth and Thirteenth Judicial Circuits), and University of South Florida.~~

(a) Criminal justice agencies within Pasco, Pinellas, Hillsborough, and Manatee counties, the Hernando County Sheriff's Office, and the State Attorney's Office for the Sixth and Thirteenth Judicial Circuits.

(b) Commission-certified public criminal justice training schools within Region IX: Hillsborough Community College Criminal Justice Institute, Manatee Technical Institute Criminal Justice Academy, Pasco-Hernando Community College/Pasco-Hernando Police Academy, and St. Petersburg Junior College Southeastern Public Safety Institute.

~~(10) Region X: —Charlotte, Lee, Sarasota, Collier, Glades, Hendry, and State's Attorney (Twelfth and Twentieth Judicial Circuits).~~

(a) Criminal justice agencies within Charlotte, Lee, Sarasota, Collier, Glades, and Hendry counties, and the State Attorney's Office for the Twelfth and Twentieth Judicial Circuits.

(b) Commission-certified public criminal justice training schools within Region X: Sarasota County Technical Institute/Sarasota Criminal Justice Academy and Lee County High Technical Center (Central)/Southwest Florida Criminal Justice Academy.

~~(11) Region XI: —Indian River, Okeechobee, St. Lucie, Martin, and State's Attorney (Nineteenth Judicial Circuit).~~

(a) Criminal justice agencies within Indian River, Okeechobee, St. Lucie, and Martin counties, and the State Attorney's Office for the Nineteenth Judicial Circuit.

(b) Commission-certified public criminal justice training school within Region XI: Indian River Community College Criminal Justice Institute.

~~(12) Region XII: —Palm Beach, State's Attorney (Fifteenth Judicial Circuit), and Florida Atlantic University.~~

(a) Criminal justice agencies within Palm Beach County, and the State Attorney's Office for the Fifteenth Judicial Circuit.

(b) Commission-certified public criminal justice training school within Region XII: Palm Beach Community College Criminal Justice Training Center.

~~(13) Region XIII: —Broward, State's Attorney (Seventeenth Judicial Circuit), Forensic Security, and Department of Health and Rehabilitative Services.~~

(a) Criminal justice agencies within Broward County, and the State Attorney's Office for the Seventeenth Judicial Circuit.

(b) Commission-certified public criminal justice training school within Region XIII: Broward Community College Criminal Justice Institute.

~~(14) Region XIV: —Monroe, Dade, State's Attorney (Eleventh and Sixteenth Judicial Circuits), Florida International University, Forensic Security, and Department of Health and Rehabilitative Services.~~

(a) Criminal justice agencies within Monroe and Miami-Dade counties, and the State Attorney's Office for the Eleventh and Sixteenth Judicial Circuits.

(b) Commission-certified public criminal justice training schools within Region XIV: Florida Keys Community College Criminal Justice Program, Miami Police Department/Miami Police Academy, Miami-Dade Police Department Metropolitan Police Institute, and Miami-Dade Community College School of Justice.

~~(15) Region XV: —All State law enforcement agencies and units, (except State's Attorney's Offices and Board of Regents), and University Police Agencies.~~

(a) All state law enforcement agencies and units, excluding the State Attorney's Offices, Board of Regents, and the University Police Agencies.

(b) Commission-certified public criminal justice training schools within Region XV: Florida Department of Law Enforcement/Florida Law Enforcement Academy, Florida Department of Highway Safety and Motor Vehicles/Florida Highway Patrol Training Academy, Florida Department of Environmental Protection Law Enforcement Training Center, and Florida Game and Fresh Water Fish Commission/Florida State Wildlife Officer Training Academy.

(16) ~~Region XVI: —Florida Department of Corrections.~~

(a) Florida Department of Corrections.

(b) Commission-certified public criminal justice training school within Region XVI: Florida Department of Corrections/Florida Corrections Academy.

Specific Authority 943.03(4), 943.12(1), ~~943.25(6)(b)~~ FS. Law Implemented 943.25(5)(2) FS. (Supp. 1998), History—New 1-13-81, Amended 7-28-82, 1-7-85, Formerly 11B-18.04, Amended 7-13-87, 1-2-97, _____.

11B-18.005 Establishment of Regional Training Councils.

(1) A Regional Training Council is hereby established in each of the regional training areas described in Rule 11B-18.004, F.A.C. The purpose of each ~~R~~regional ~~T~~training ~~C~~council shall be to act as an extension of the Commission in the planning, programming, and budgeting of the Criminal Justice Standards and Training Trust Fund, and to advise and assist the Commission in developing a plan for assessing regional training and Commission-certified public criminal justice training schools' needs, pursuant to Section 943.25(5)(6), F.S.

(2) State Regional Training Councils XV and XVI, shall have the same functions as the Local Regional Training Councils.

(3) The State Regional Law Enforcement Officer Training Council XV, shall be comprised of one representative from each of the following state law enforcement agencies:

- (a) Department of Highway Safety and Motor Vehicles.
- (b) Department of Law Enforcement.
- (c) Department of Environmental Protection ~~Natural Resources~~.
- (d) Department of Business and Professional Regulation.
- (e) Game and Fresh Water Fish Commission.
- (f) Department of Insurance.
- (g) Department of Transportation.
- (h) Department of Agriculture and Consumer Services.
- (i) Department of Management Services ~~General Services~~.
- (j) Department of the Lottery.
- (k) Office of the Attorney General

(4) The State Regional Correctional Officer Training Council shall be comprised of not less than seven (7) representatives, and are appointed by the Secretary of the Department of Corrections.

(5) Each Local Regional Training Council shall be comprised of the following:

(a) ~~N~~ot more than twelve (12) members, of which not more than six (6) shall be law enforcement officers;:

(b) ~~N~~ot less than two (2) correctional officers, of which one (1) employee is a public agency who is in charge of a correctional institution within the region; ~~three (3) correctional officers,~~ and

(c) ~~N~~ot more than three (3) members representing a Commission-certified public ~~the certified~~ criminal justice training schools.

(d) ~~A~~ ~~N~~o single Commission-certified public criminal justice training school, correctional agency, or law enforcement agency shall not ~~may~~ have more than one (1) representative unless, in the view of the Commission, the addition of other representatives from the same agency does not adversely impact the representative nature of the Regional Training Council;:

(e) At least one (1) of the six law enforcement officers shall ~~must~~ be a sheriff;:

(f) At least one (1) of the six law enforcement officers shall ~~must~~ be a police chief.

(g) The ~~designated~~ training center directors; Commission-certified public ~~the certified~~ criminal justice training schools in the region; shall elect representatives from their members;: ~~one (1) of the correctional officers must be in charge of a county correctional institution.~~

(6) Each agency or Commission-certified public criminal justice training school; providing a representative to the State Regional Training Councils or the Local Regional Training Councils, shall designate an alternate representative from the same agency or Commission-certified public criminal justice training school;: ~~The~~ alternate shall assume all responsibilities of the primary representative upon notice. ~~The~~ ~~N~~o representative's appointment shall not continue after the representative ceases to be employed by the agency represented. The Regional Training Council shall approve appointments of replacement representatives. Appointments of replacement representatives shall be approved by the Regional Training Council.

(7) Service on a ~~R~~regional ~~T~~training ~~C~~council shall not constitute employment by a state agency or entitle a member to any special compensation, benefits, or privileges. The Commission shall authorize travel costs and per diem, through budget approval, pursuant to Section 112.061, F.S., for chairpersons, fiscal agents, and training center directors who are members of a ~~R~~regional ~~T~~training ~~C~~council, or others authorized; pursuant to Section 943.25(5)(6)(e), F.S., and Rule 11B-18.007(5), F.A.C., to attend Commission Division ~~Trust Fund~~ Workshops.

Specific Authority 943.03(4), 943.12(1), ~~943.25(6)(b)~~ FS. Law Implemented 943.25(5)(6) FS. History—New 1-13-81, Amended 7-28-82, 1-7-85, (7),(8) Transferred to 11B-18.051, Formerly 11B-18.05, Amended 7-13-87, 5-23-88, 10-17-90, 12-13-92, 1-2-97, _____.

11B-18.0051 Regional Training Council Meetings.

(1) Each of the Regional Training Councils established pursuant to Rule 11B-18.005, F.A.C., and Section 943.25(5)(6), F.S., shall elect a chairperson and other officers needed, and shall hold at least two (2) meetings each fiscal year to develop and approve the regional ~~training~~ Criminal Justice Standards and Training Trust Fund budgets, and may hold other meetings, ~~as appropriate~~, to consider other items pertaining to law enforcement, correctional, or correctional probation officer training. A majority of Regional Training Council members shall be in attendance to constitute a quorum.

(2) ~~In the event that~~ Three (3) members or the chairperson of a Regional Training Council may request ~~requests a meeting; it shall be held within a reasonable time.~~

(3) For purposes of developing and approving the regional ~~training~~ Criminal Justice Standards and Training Trust Fund budgets, a quorum of a Regional Training Council's members shall meet, and a majority vote of those members in attendance is required to reach a decision.

(4) Each of the Regional Training Councils created pursuant to Rule 11B-18.005, F.A.C., and Section 943.25(5)(6), F.S., shall adopt ~~appropriate~~ rules of parliamentary procedure, and ~~the comply with pertinent state statutes and rules~~; minutes of each meeting shall be recorded and ~~submitted~~ transmitted to Commission staff the Division for review.

Specific Authority 943.03(4), 943.12(1), 943.25(5)(6)(b) FS. Law Implemented 943.25(5)(2) FS. (Supp. 1998). History—New 1-7-85, (1),(4) Formerly 11B-18.05(8),(7), Formerly 11B-18.051, Amended 7-13-87, 1-2-97, _____.

11B-18.0052 Development of Budgets.

(1) Commission staff shall ~~The Division will~~ notify the training regions by July 1 of each year regarding ~~of~~ the Commission's plan for projected allocation of trust fund monies, and the proposed distribution of this allocation to the training regions, as determined by the distribution formula in subparagraph (2)(a) of this rule section.

(2) The formula for distribution of Criminal Justice Standards and Training Trust Fund monies to the training regions is as follows:

(a) To determine per capita allocation:

$T/N = P$; where:

T = total trust fund monies available for distribution

N = total full-time officer population based on Commission staff's the Division's most recent Trust Fund Report prior to July 1

P = per capita allocation

(b) To determine region allocation:

$P \times N^2 = R$; where:

P = per capita allocation

N² = full-time officer population in a region based on Commission staff's the Division's most recent Trust Fund Report prior to July 1

R = region allocation

(3) Monies collected pursuant to Section 943.25, F.S., and appropriated to implement training programs and Commission-certified public criminal justice training school enhancements, are public funds. ~~By February 1 of each year, Each Regional Training Council shall submit to Commission staff the Division, for approval, a projected annual operating budget that identifies proposed trust fund expenditures, for submission to Commission staff by February 1 of each year.~~

(4) Preparation of the annual operating budget shall be completed pursuant to the Criminal Justice Standards and Training Commission Policies and Procedures Manual, revised January 1999, effective November 1996, hereby incorporated by reference, and shall be completed on the appropriate forms provided made available by Commission staff pursuant to the Division, as set forth in paragraph (8) of this rule section.

(5) A Regional Training Council that fails to submit an operating budget on or before by February 1, which shall be prepared on a the Criminal Justice Standards and Training Trust Fund Operating Budget form, CJSTC-310, revised August 5, 1998, effective November 1996, hereby incorporated by reference, or fails to receive an extension of time for its budget submission, shall forfeit its opportunity to propose an operating budget for the region. Thereafter, the Commission may approve any equitable ~~and appropriate~~ disposition of the funds ~~which were~~ previously available to the region.

(6) The operating budget shall list items in order of priority within each budget category, and shall be completed using the required format outlined in the Criminal Justice Standards and Training Commission Policies and Procedures Manual.

(7) All projected operating budgets and amendments shall ~~will~~ be approved by Commission staff the Division to ensure compliance conformity with the Criminal Justice Standards and Training Commission Policies and Procedures Manual; ~~Notification of review and approval of projected budgets shall be submitted made~~ to each Regional Training Council.

(8) All forms and the Criminal Justice Standards and Training Commission Policies and Procedures Manual referenced in this rule may be obtained by contacting the Florida Department of Law Enforcement, Criminal Justice Professionalism Program, Division of Criminal Justice Standards and Training, Post Office Box 1489, Tallahassee, Florida 32302-1489, Attention: Director's Office, Forms and/or Manual Liaison.

Specific Authority 943.03(4), 943.12(1), 943.25(6)(b) FS. Law Implemented 943.25 FS. History—New 1-13-81, Amended 7-28-82, 1-26-83, 1-7-85, Formerly 11B-18.052(2)(a),(b), Amended 1-28-86, 7-13-87, 10-17-90, 12-13-92, 1-2-97, _____.

11B-18.007 Expenditure of Funds.

(1) Funding Allocation.

(a) Determination of the amount of available funds for allocation from the Criminal Justice Standards and Training Trust Fund to the State and Local Regional Training Councils shall ~~will~~ be made; by Commission staff ~~the Division~~ and the Commission, upon receipt of the trust fund's approved legislative appropriation.

(b) A separate operating budget for accrued interest shall be submitted by the Regional Training Councils for Commission-staff's approval. Expenditure of interest is restricted to training costs and purchase of operating capital outlay items. Interest earned shall be identified for the year earned, on a Criminal Justice Standards and Training Trust Fund Year-End Fiscal Report form CJSTC-301, revised August 5, 1998, effective November 1996, hereby incorporated by reference. Such interest shall be expended by June 30 of the subsequent fiscal year. Unexpended interest shall be submitted to Commission staff.

(c) The Criminal Justice Standards and Training Trust Fund monies will be distributed to each training region in compliance with the distribution formula established in Rule 11B-18.0052(2), F.A.C.

(d) ~~A No~~ region shall not ~~may~~ expend any of its allocated funds until the expenditure is properly budgeted and approved by the Commission ~~the Division/Commission~~.

(2) ~~No more than sixty (60) days after the Division notifies the Regional Training Councils of the approved legislative appropriation, Each Regional Training Council shall meet and submit to Commission staff, the Division,~~ on forms provided by Commission staff, the Division, pursuant to Rule 11B-18.0052(8), F.A.C., any budget changes affected (based on priority items identified in its proposed budgets) effected by any funding differences between the Commission's Division's Legislative Budget Request and the approved legislative appropriation, no more than sixty (60) days after Commission staff notifies the Regional Training Councils of their approved Legislative appropriation.

(3) Upon Commission approval ~~Division approval~~ of the Regional Training Councils' budgets, Commission staff ~~the Division~~ shall authorize release of budgeted funds to each training region's designated fiscal agent(s).

(4) A Commission-certified public criminal justice training school may place Criminal Justice Standards and Training Trust Fund monies separately, on temporary deposit, in interest bearing accounts. Interest earned may be expended on trust fund-related needs subject to the following conditions:

(a) Commission staff shall ~~The Division~~ ~~must~~ request and be granted ~~appropriate~~ authority from the State Comptroller; and

(b) A separate operating budget for accrued interest shall ~~must~~ be submitted by the Regional Training Councils for Commission-staff's approval ~~Division approval~~. Expenditure

of interest is restricted to training costs and purchase of operating capital outlay items. Interest earned shall be identified for the year earned; and submitted on a Criminal Justice Standards and Training Trust Fund Year-End Fiscal Report form; CJSTC-301, effective November 1996, hereby incorporated by reference. Such interest ~~shall~~ ~~must~~ be expended by June 30 of the subsequent fiscal year.

(5) Administrative expenditures approved by a Regional Training Council shall not exceed five (5) percent of the total allocation to each Commission-certified public criminal justice training school or region. Travel costs and per diem expenditures for the Regional Training Councils' chairpersons, training center directors, and fiscal agents, may be budgeted; in addition to the five (5) percent of the total monies allocated for administrative expenditures; to attend Commission Division Trust Fund-related workshops. In addition, training center directors, not designees, may submit travel expenses to Commission staff ~~the Division~~ to attend regularly scheduled Commission meetings, upon obtaining ~~using~~ prior budget approval pursuant to Section 112.061, F.S., and pursuant to the Criminal Justice Standards and Training Commission Policies and Procedures Manual; The request for budget approval ~~and~~ shall be submitted to Commission staff by completing and submitting ~~the Division for approval using a Criminal Justice Standards and Training Trust Fund Programmatic Change and Budget Amendment form; CJSTC-302, revised June 17, 1998, effective November 1996, hereby incorporated by reference, or a an Criminal Justice Standards and Training Trust Fund Operating Budget form CJSTC-310.~~

(6) Criminal Justice Standards and Training Trust Fund monies ~~shall~~ ~~can~~ not be used for recurring or other costs that ~~which~~ would normally and reasonably be incurred by a the Commission-certified public criminal justice training school. A list of costs considered "not appropriate" are included in the Criminal Justice Standards and Training Commission Policies and Procedures Manual.

(7) Regions shall, ~~if necessary,~~ make provisions in their operating budget(s) for the reciprocal payment of training provided to officers and support personnel, ~~pursuant to Section 943.10(11), F.S., who must attend training programs offered in other another regions pursuant to Section 943.10(11), F.S.~~ Each region's fiscal agent(s) shall be responsible and accountable for receipt and disbursement of the region's specified reciprocal funds.

(8) Each region ~~shall~~ ~~must~~ offer all courses funded by Criminal Justice Standards and Training Trust Fund monies, first, to the officers within its respective region. If space is still available, officers from other regions may attend trust fund courses; after obtaining ~~with~~ prior approval of the regions involved and after obtaining proper budget approval. The region offering the training is authorized to require reciprocal payment from the region in which the officer is employed, pursuant to Section 943.25(6)(a), ~~and~~ (b), F.S., and paragraph

(10) of this rule section. Support personnel as defined in Section 943.10(11), F.S., may attend trust-funded courses on a space available basis, provided ~~providing no~~ certified Florida officer is not ~~was~~ displaced.

(9) Reciprocal payment, when required by the region offering the training, shall be limited to training costs and shall be administered and paid by the fiscal agents charged with responsibility for such funds, pursuant to Section 943.25(6)(7)(a), F.S.

(10) If a training course is funded with trust fund monies, ~~no~~ training, and room, or board costs may not be assessed against an officer, support personnel, or employing agency of Florida, this state, pursuant to Section 943.10, F.S. If an officer is not employed or appointed by an employing agency of Florida, the officer may attend a course funded with Criminal Justice Standards and Training Trust Fund monies, provided ~~that~~ the officer pays for all training costs associated with the officer's course ~~his/her~~ attendance, pursuant to Section 943.25(6)(7)(b), F.S. These costs, excluding out-of-state tuition, shall be deposited in the Commission-certified public criminal justice training school's Criminal Justice Standards and Training Trust Fund account.

Specific Authority 943.03(4), 943.12(1), 943.25(4), 943.25(6)(b) FS. Law Implemented 943.25 FS. History—New 1-13-81, Amended 7-28-82, 1-7-85, 1-28-86, Formerly 11B-18.07, Amended 7-13-87, 5-23-88, 12-13-92, 5-25-94, 1-2-97, _____.

11B-18.0071 Reports.

(1) ~~The At the close of the periods ending December 31 and June 30, the~~ fiscal agent shall prepare and submit a Criminal Justice Standards and Training Trust Fund Semiannual Expenditure Report form, CJSTC-300, revised August 5, 1998, effective November 1996, hereby incorporated by reference, to Commission staff the Division within 45 calendar days following ~~of~~ the end of the reporting periods of July 1 through December 31, and January 1 through June 30 ~~period~~. This report shall be prepared pursuant to the Criminal Justice Standards and Training Commission Policies and Procedures manual.

(2) If funds were encumbered prior to the close of the fiscal year for which they were budgeted, the amount(s), purchase order number(s), and the vendor(s) shall ~~must~~ be detailed on the Criminal Justice Standards and Training Trust Fund Year-End Fiscal Report form, CJSTC-301. The fiscal agent shall prepare and submit a preliminary Year-End Fiscal Report to Commission staff the Division by October 30 of each year.

(3) Allocated funds within the operating budget that have ~~not~~ been expended or encumbered as of June 30, and those encumbered funds that have ~~not~~ been expended ~~spent~~ by December 31 of the following fiscal year, shall ~~must~~ be submitted to Commission staff by completing the Division ~~with~~ a final Criminal Justice Standards and Training Trust Fund Year-End Fiscal Report form CJSTC-301, by January 31

of the subsequent calendar year. ~~These monies shall revert to the Department of Revenue Additional Court Cost Clearing Trust Fund for redistribution.~~

Specific Authority 943.03(4), 943.12(1), 943.25(4), 943.25(6)(b) FS. Law Implemented 943.25 FS. History—New 1-13-81, Amended 7-1-81, 7-28-82, 1-7-85, 1-28-86, Formerly 11B-18.071, Amended 7-13-87, 5-23-88, 10-17-90, 12-13-92, 1-2-97, _____.

11B-18.008 Areas of Responsibility.

With regard to the Criminal Justice Standards and Training Trust Fund, the following entities shall have responsibilities outlined in subparagraphs (1)-(4)(a)-(e) of this rule section.

(1) The responsibilities of Commission staff the Division are to:

(a) Identify Florida's full-time officer population prior to July 1 of each year.

(b) Notify training regions of their projected budget allocation no later than July 1 of each year.

(c) Receive regional projected operating budgets for the next fiscal year no later than, ~~by~~ February 1 of each year.

(d) Notify training regions of their approved ~~approval of their~~ projected operating budget for the next fiscal year.

(e) Notify training regions of their approved legislative appropriation.

(f) Approve requests for budget amendments submitted by the Regional Training Councils for the transfer of funds between budget categories of their ~~an~~ approved operating budget, provided the budget amendment that does not alter the Commission-approved trust fund formula.

(g) Process requests for emergency budget amendments, which have been approved by the Commission Chairman and are pending final approval by the full Commission. Obtain approval prior to disposing of any property purchased with Criminal Justice Standards and Training Trust Fund monies, pursuant to the Criminal Justice Standards and Training Commission Policies and Procedures manual.

(h) Approve programmatic changes within budget categories submitted by the regional chairperson or designee.

(i) Approve the disposal of trust fund property with a purchase price of \$500 or above, which has been submitted by the regional chairperson or designee. Notification of obsolete property shall ~~must~~ include verification and approval by a Commission the regional Field Specialist. Notification of stolen trust fund property shall ~~must~~ include a copy of the police report indicating circumstances beyond the control of the Commission-certified public criminal justice training school.

(j) Report the status of the Criminal Justice Standards and Training Trust Fund at each of the Commission's quarterly meetings.

(k) Review the Semiannual Expenditure Reports submitted by the regional chairperson or designee.

(l) Review the Year-End Fiscal Reports submitted by the regional chairperson or designee, and notify the Commission, regional chairpersons, fiscal agents, and training center directors of the results of the Year-End Fiscal Report.

(m) Audit any training facility or program and the fiscal agent's accounting records and procedures for compliance with laws, rules, budget provisions, and contractual agreements. ~~arrangements between the recipient and the Department, Commission, or Division.~~

(n) Provide staffing, ~~as necessary,~~ to carry out all proposals, and make recommendations to the Commission regarding ~~of the~~ final decisions ~~for regarding~~ expenditure of Criminal Justice Standards and Training Trust Fund monies.

(o) Use the ~~R~~regional ~~T~~training ~~C~~ouncils as an extension of the Commission's administrative arm ~~to establish, for the purposes of establishing appropriate~~ channels of administrative communication. ~~Commission staff~~ ~~The Division~~ shall ~~advise~~ ~~keep~~ regional chairpersons, fiscal agents, and criminal justice training center directors ~~fully advised~~ of trust fund activity in their respective regions.

(2) The responsibilities of the Regional Training Councils are to:

(a) Act as an extension of the administrative arm of the Commission ~~establishing, to establish~~ regional training priorities ~~that which~~ conform to the Florida Criminal Justice Standards and Training ~~Commission~~ Five-Year Plan.

(b) Determine the distribution of Criminal Justice Standards and Training Trust Funds, for allocation to the individual Commission-certified public criminal justice training schools in the respective regions.

(c) Submit to ~~Commission staff~~ ~~the Division~~ a list of the current voting membership of each Regional Training Council, including Regional Training Council officers, (noting appointed fiscal agents); and forward any membership changes to ~~Commission staff~~ ~~the Division~~ as they occur.

(d) Submit to ~~Commission staff~~ ~~the Division~~, minutes of each ~~R~~regional ~~T~~training ~~C~~ouncil meeting.

(e) Submit to ~~Commission staff~~ ~~the Division~~, all required documents, budgets, and reports.

(f) Appoint a regional or school fiscal agent.

(3) The responsibilities of the ~~regional~~ fiscal agents are to:

(a) Provide fiscal guidance and assistance to Regional Training Councils in the preparation of all documents, budgets, and reports for submission to ~~Commission staff, the Division/Commission.~~

(b) Be responsible for the receipt and disbursement of Criminal Justice Standards and Training Trust Fund monies pursuant to applicable laws, rules, contracts, approved budgets, and local policies and procedures.

(c) Be responsible for the separate maintenance of ~~appropriate~~ financial records, including accrued interest documentation ~~for of interest on~~ Criminal Justice Standards

and Training Trust Fund accounts, and the Commission-certified public criminal justice training schools' property inventories.

(4) The responsibilities of the Commission-certified public criminal justice training schools are to:

(a) Develop a training calendar based on regional training priorities; ~~that which~~ is inclusive of Commission recommendations and estimated training costs ~~cost estimates~~. The training calendar shall adhere to the Regional Training Council's plan, Commission procedures, and the Commission's established formula for Criminal Justice Standards and Training Trust Fund expenditures.

(b) Be responsible for the receipt and payment of Criminal Justice Standards and Training Trust Fund monies authorized by approved budgets pursuant to applicable laws, rules, contracts, budgets, and local policies and procedures.

(c) Be responsible for the separate maintenance of the appropriate financial records pursuant to ~~in accordance with~~ standard state or local accounting procedures.

(d) Respond to any audit by the State, ~~Commission, Commission staff, Division,~~ Regional Training Councils, or local government.

(e) Begin all trust funded training courses on or before June 30 of the current fiscal year.

(f) Receive and separately account for all property purchased with Criminal Justice Standards and Training Trust Fund monies pursuant to ~~in accordance with~~ standard state or local property inventory procedures. Submit to Commission staff ~~an the Division~~ a ~~property~~ inventory of operating capital outlay items purchased with Criminal Justice Standards and Training Trust Fund monies during each fiscal year.

(g) Obtain approval from Commission staff prior to disposing of any property purchased with Criminal Justice Standards and Training Trust Fund monies, pursuant to the Criminal Justice Standards and Training Commission Policies and Procedures Manual.

Specific Authority 943.03(4), 943.12(1) FS. Law Implemented 943.25 FS. History--New 1-13-81, Amended 7-1-81, 7-28-82, 1-7-85, 1-28-86, Formerly 11B-18.08, Amended 7-13-87, 5-23-88, 10-17-90, 12-13-92, 1-2-97, _____.

11B-18.009 Applicability, Contractual Obligations.

(1) All trust fund budgets approved by the Commission shall be governed by this rule chapter upon its adoption. Failure to submit required budgets, reports, and other related documents, shall result in subsequent allocations being withheld by the Commission ~~Division~~.

(2) ~~Commission staff~~ ~~The Division~~ is authorized to adjust budget allocations to reflect funds ~~which are~~ scheduled for reversion to the Department of Revenue Additional Court Cost Clearing Trust Fund, but which have not yet been returned.

(3) Receipt of any Criminal Justice Standards and Training Trust Fund monies shall be deemed an acceptance of the terms, conditions, and limitations contained in the approved budget

under which they are received. Regional Training Councils or Commission-certified public criminal justice training schools accepting Criminal Justice Standards and Training Trust Fund support, on or after the effective date of this rule chapter, shall be deemed to have:

(a) Agreed to abide by the Rules of the Florida Department of Law Enforcement and the Criminal Justice Standards and Training Commission.

(b) Agreed to surrender all personal property to the Commission acquired; with Criminal Justice Standards and Training Trust Fund monies, ~~to the regional training councils~~ upon loss of a Commission-certified public criminal justice training school's certification.

(c) Agreed to receive ~~Division~~ approval from Commission staff prior to disposing of any property secured through Criminal Justice Standards and Training Trust Fund monies, pursuant to outlined in the Criminal Justice Standards and Training Commission Policies and Procedures Manual.

(4) Property acquired by a state, local, or regional entity through the Criminal Justice Standards and Training Trust Fund shall become the property of the local entity. ~~With the exception of Section 943.25, F.S., or other state statutes, this rule, the budget, approved training plan, or a grant that provides to the contrary, property acquired by a state, local, or regional entity through the Criminal Justice Standards and Training Trust Fund, becomes the property of the local entity.~~ However, where a grant, or a portion of a grant, ~~from the Criminal Justice Standards and Training Trust Fund;~~ has been used or applied contrary to these authorities, the state, local, or regional entity shall ~~will~~ be deemed to have a contractual obligation to make restitution pursuant to this rule.

Specific Authority 943.03(4), 943.12(1), 943.25(4), 943.25(6)(b) FS. Law Implemented 943.25 FS. History—New 1-13-81, Amended 7-28-82, 1-7-85, 1-28-86, Formerly 11B-18.09, Amended 7-13-87, 12-13-92, 1-2-97, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
OMCI Donna Hunt, FDLE, Criminal Justice Professionalism Program

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Program Director A. Leon Lowry, II, FDLE, Criminal Justice Professionalism Program

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: December 8, 1998

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN THE FAW: November 13, 1998

DEPARTMENT OF LAW ENFORCEMENT

Criminal Justice Standards and Training Commission

RULE CHAPTER TITLE: Certification of Criminal Justice Training Instructors

RULE CHAPTER NO.:

11B-20

RULE TITLES:

RULE NOS.:

Minimum Requirements for

Certification of Instructors 11B-20.001

Revocation of Certification 11B-20.0012

PURPOSE AND EFFECT: The purpose and effect of the proposed rule revisions are to correct and add rule and statute references; to clarify existing rule language; to incorporate grammatical corrections; to comply with statutory name cites and language in Section 943.10, F.S.; to clarify the requirements for certification as a Commission-certified criminal justice training instructor; to comply with 1998 Legislation amending Section 943.09, F.S., changing the name of the "Division of Criminal Justice Standards and Training," to the "Criminal Justice Professionalism Program," and amending Section 943.10(12), F.S., changing the reference of "Division" to "Program." Pursuant to Section 943.09, F.S., program staff are also Commission staff who support the Commission, therefore the reference to "Division" has been changed in Rule Chapter 11B-20 to "Commission staff"; to add "designee" for signature authority on the CJSTC-71 form; incorporation of form CJSTC-271; to add form CJSTC-71 for instructor performance evaluations; to reference that law topics can be found in the Commission Policies and Procedures Manual; to update requirements for completing First Responder Instructor Qualifications; to require that training schools permanently document receipt of completed renewal applications on the face of the renewal application; and to allow training center directors to exempt specialized topic instructors from general instructor certification, based on the instructors' education, professional credentials, training, work experience, and employment qualifications.

SUMMARY: Rule Chapter 11B-20, F.A.C., is being revised to incorporate housekeeping revisions due to Legislative revisions, and revise rule language and implement new policy regarding the minimum requirements for certification as a Commission-certified criminal justice training instructor.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: None.

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

SPECIFIC AUTHORITY: 943.03(4), 943.12(1), 943.14(3) FS. LAW IMPLEMENTED: 943.25, 943.12(3),(5),(9), 943.14(3),(8), 943.14 FS.

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

TIME AND DATE: 4:00 p.m., May 3, 1999

PLACE: 2331 Phillips Road, Elevator Conference Room, Quad C, 3rd Floor, Tallahassee, Florida 32308-1489

NOTICE UNDER THE AMERICANS WITH DISABILITIES ACTS: Please contact Donna Hunt, Florida Department of Law Enforcement, Criminal Justice Professionalism Program, 2331 Phillips Road, Tallahassee, Florida 32308-1489.

Pursuant with the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this program, please advise the Department at least 2 weeks prior to the workshop by contacting Donna Hunt at TDD#: (850)656-9597.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Donna Hunt, Florida Department of Law Enforcement, Criminal Justice Professionalism Program, 2331 Phillips Road, Tallahassee, Florida 32308-1489, (850)410-8615

THE FULL TEXT OF THE PROPOSED RULES IS:

11B-20.001 Minimum Requirements for Certification of Instructors.

(1) Except as otherwise provided in this rule ~~chapter~~ or by law, individuals ~~all persons~~ who instruct Commission-approved training courses certified by the Criminal Justice Standards and Training Commission, pursuant to Rule 11B-35.001(2), F.A.C. Rule 11B-35.007, F.A.C., at or through a Commission-certified criminal justice training school, ~~shall must~~ be certified by the Commission. To certify that an applicant is eligible for Commission certification, a training school shall submit to Commission staff a completed Instructor Certification Application form CJSTC-71, revised June 12, 1998, hereby incorporated by reference, for those applicants who have not been previously certified, and who have met all certification requirements pursuant to Section 943.12(9), F.S. Individuals applying for certification to instruct must complete and submit, to the Division of Criminal Justice Standards and Training, an Instructor Certification Application form, CJSTC-71, effective November 1996, hereby incorporated by reference. The training center director shall must maintain in the instructors file all documentation that which verifies the instructor's qualifications, which shall be made available for review by Commission staff. and must make the documentation available for review by Division staff. The applicant shall must comply with the following certification requirements:

(a) The applicant shall demonstrate Demonstrate methods of instruction.

(b) The applicant shall must have completed the Commission-approved 80-hour Instructor Techniques course Course, through a Commission-certified criminal justice training school. The training center director shall determine if a course is comparable in content for each topic. The training center director shall, upon evaluation of an applicant's previously completed, but partially completed comparable course, authorize the applicant to complete only those portions

of the current Commission-approved Instructor Techniques course in which the applicant is deficient, and to includes the following courses:

- ~~1. Instruction in the legal liability of training.~~
- ~~2. Ethics.~~
- ~~3. Human Diversity Training pursuant to Section 943.1758, F.S., and which shall be taught in one block of instruction.~~
- ~~4. Adult learning theory.~~
- ~~5. Communication skills.~~
- ~~6. Learning aids.~~
- ~~7. Principles of instruction.~~
- ~~8. Lesson plan preparation.~~
- ~~9. Evaluation and measurement.~~
- ~~10. A 50-minute presentation by each student.~~
- ~~11. A course comparable in content on each topic may be deemed equivalent as determined by the training center director. The training center director may, upon evaluation of an applicant's previously completed, but partially comparable course, authorize the applicant to complete only those portions of the current Commission-approved Instructor Techniques Course in which the applicant is deficient.~~

(c) The applicant shall will serve an internship under the supervision of a training center director; or his/her designee, who shall will evaluate the applicant's instructional abilities by completing using an Instructor Competency Checklist form; CJSTC-81, revised July 2, 1998, effective November 1996, hereby incorporated by reference, which shall be maintained in the instructor's file. The applicant shall must demonstrate all applicable competencies listed on the Instructor Competency Checklist form; CJSTC-81. The internship shall not be included in the Commission-approved 80-hour Instructor Techniques course Course. The training center director shall will determine the length and composition of the internship, based on the applicant's experience, education, and other pertinent credentials. The length and composition of the internship shall will be in written form and maintained as part of the applicant's instructor file.

(d) Each instructor shall be evaluated periodically by students taught by that instructor. The training center director shall maintain these evaluations in the instructor's file for one year. These evaluations shall be maintained on file for one year by the training center director.

(e) Any applicant seeking a certificate as an instructor shall must be affiliated with a Commission-certified criminal justice training school, or a school whose application for such certification is being processed by the Commission. The director of the training school shall must make a recommendation for certification after reviewing the credentials and evaluating the instructional abilities of the applicant. The training center director; or designee, shall sign the his or her signature on the training Instructor Certification

Application form; CJSTC-71, to ~~shall~~ certify to the Commission that each recommended applicant complies with (1)(g) herein in compliance with Rule 11B-20.001(3), F.A.C.

(f) ~~Documentation of Document~~ sufficient knowledge of a the subject matter. The applicant ~~shall must~~ have completed three (3) years work experience in the field of instruction; for which certification is sought, prior to signing the instructor certification application. The applicant shall must document their his/her history; based on training, education, experience, or professional credentials, and proficiency skills standards, suitable to the topic of instruction for which certification is being sought. The training center director shall document experience in the subject matter.

(g) Good Moral Character. On or after the effective date of this rule section, any individual seeking certification or recertification as a Commission-certified criminal justice training instructor shall sign an Instructor Certification Application form CJSTC-71 that affirms the following qualifying factors to be true:

1. The individual has not been convicted of any felony or of a misdemeanor involving perjury or false statement, or has received a dishonorable discharge from any of the Armed Forces of the United States.

2. The individual has not, after July 1, 1981, pled guilty or nolo contendere or has been found guilty of any felony or of a misdemeanor involving perjury or a false statement, notwithstanding suspension of sentence or withholding of adjudication.

(2) Duration and Renewal of Instructor Certification:-

(a) The renewal application shall be considered for renewal based on the submission of an updated application, and shall be submitted to Commission staff within six months prior to the instructor's certification expiration date. The date of submission shall be construed as the verified or documented date the Commission-certified criminal justice training school received the updated application, including all necessary supporting documentation, provided the submission date is prior to the date of expiration. The documented date shall be permanently validated on the face of the renewal application.

(b) The certification expiration date shall be four (4) years following the date of the training center director's signature on the Instructor Certification Application form CJSTC-71. If the instructor's certification expires, the instructor shall make application for a new certification and shall meet the following guidelines:

1. The training center director or designee shall evaluate the applicant's proficiency as an instructor by completing the Instructor Competency Checklist form CJSTC-81, prior to signing the instructor's application for certification. The new Instructor Competency Checklist shall be maintained in the instructor's file.

2. The applicant shall demonstrate proficiency in each specialized topic for which certification is being sought, pursuant to Rule 11B-35.0024, F.A.C., and shall be recorded on the following applicable proficiency checklist forms:

a. Firearms Basic Recruit Performance Evaluation form CJSTC-4, January 1, 1997, hereby incorporated by reference.

b. First Responder to Medical Emergencies Basic Recruit Performance Evaluation form CJSTC-5, August 1, 1993, hereby incorporated by reference.

c. Defensive Tactics Basic Recruit Performance Evaluation form CJSTC-6, revised November 18, 1998, hereby incorporated by reference.

d. Law Enforcement Driving Instructor Performance Evaluation form CJSTC-7A, November 18, 1998, hereby incorporated by reference.

e. Laser and Radar Speed Measurement Device Instructor Field Evaluation form CJSTC-10, July 1, 1995, hereby incorporated by reference.

f. General Duty K-9 Team Proficiency Demonstration form CJSTC-83, revised June 17, 1998, hereby incorporated by reference.

g. Firearms Chemical Agent Exposure Training Evaluation Form CJSTC-4A, January 22, 1998, hereby incorporated by reference (Optional – is not mandated evaluation form).

3. An Applicant who fails to demonstrate proficiency pursuant to (2)(b)1., herein, shall meet the requirements of (1)(a)-(c), (e) and (f), herein.

4. An Applicant who fails to demonstrate proficiency, pursuant to (2)(b)2., herein, for any specialized topics in which certification is sought, shall meet the requirements established for certification in such specialized topics, pursuant to (4) herein.

(c) Instructors requesting renewal of certification after January 1, 1994, shall complete the Commission-approved 20-hour Human Diversity Train-the-Trainer course, or the 8-hour Instructor Awareness of Human Diversity Concepts Program. The requirements shall be completed for re-certification only once during the instructor's career.

(d) If a Commission-certified criminal justice training school instructor adds a specialized topic of instruction to the current instructor certification, the expiration date shall be the same as the current instructor certification expiration date.

(3) Exemption from general instructor certification. An instructor shall be exempt from a Criminal Justice Standards and Training Commission general instructor certification under the following circumstances:

(a) The training center director shall document the instructor's full-time status and identify the name and location of the college, community college, or university, by completing an Instructor Exemption form CJSTC-82, October 1, 1993, hereby incorporated by reference, which shall be maintained on file in the instructor's file. The instructor shall

have specific knowledge of the subject matter to be taught, which shall be determined by the training center director, and the confirming documentation shall be maintained in the instructor's file.

(b) The training center director shall document the instructor's full-time status and identify the name and location of the vocational-technical institution, by completing an Instructor Exemption form CJSTC-82, and maintained in the instructor's file. The instructor shall be qualified in the specific subject matter to be taught, and the confirming documentation shall be maintained in the instructor's file.

(c) If an instructor holds a current valid instructor certification from another state or the military, the applicant shall complete an internship. The training center director shall include a copy of the instructor's out-of-state or military certification, documentation describing the internship, completion of the Instructor Competency Checklist form CJSTC-81, Instructor Exemption form CJSTC-82, and the confirming documentation shall be maintained in the instructor's file.

(d) If an instructor is uniquely qualified in a specific subject matter, the training center director shall document the instructor's unique qualifications by completing an Instructor Exemption form CJSTC-82, and the confirming documentation shall be maintained in the instructor's file.

(e) If an instructor is teaching as a result of exceptional circumstances, the instructor shall be qualified in the specific subject matter to be taught regardless of the exceptional circumstance. The training center director shall document the qualifications of the instructor by completing an Instructor Exemption form CJSTC-82, shall document the exceptional circumstance for which the instructor is teaching, and the confirming documentation shall be maintained in the instructor's file.

(4)(g) Specialized topics of instruction. Specific additional education or training beyond the general certification shall will be required to obtain Criminal Justice Standards and Training Commission instructor certification ~~Instructor Certification~~ for specialized topics of instruction. The applicant shall must hold, or be eligible for a current and valid general Criminal Justice Standards and Training Commission instructor certification, pursuant to (1) herein Rule 11B-20.001(1), F.A.C., or maintain have on file in the instructor's file, ~~training school's instructor file~~ a completed Instructor Exemption form, CJSTC-82, effective November 1996, hereby incorporated by reference, prior to applying for certification in a specialized topic of instruction. To be certified to instruct in a specialized topic, the applicant shall successfully complete the requirements for that topic in paragraph (4)(a)-(h) herein. The applicant must successfully complete the current Commission-approved instructor course for the specialized topic of instruction, for which the applicant is seeking certification.

(a)1- Law Topics Instructor Certification. An applicant shall be a graduate of a law school and possess experience in criminal justice, or possess substantial law training and experience in the practical application of law, to be certified to instruct the specified law topics of probable cause, court structure, court rules, trial procedures, and burden of proof. The specific topics and course numbers are listed in the Criminal Justice Standards and Training Commission Policies and Procedures Manual, revised January 1999, hereby incorporated by reference.

(b)2- Firearms Instructor Certification. An applicant shall have successfully completed the Commission-approved firearms instructor course; through a Commission-certified criminal justice training school, to include a comprehensive examination; and demonstration of proficiency recorded on a ~~using the~~ Firearms Basic Recruit Performance Evaluation form; CJSTC-4, effective November 1996, ~~hereby incorporated by reference~~, to be certified to instruct specific specified firearms topics.

(c)3- Law Enforcement Driving Instructor Certification. An applicant shall have successfully completed the Commission-approved Law Enforcement Driving Instructor course ~~Course~~; through a Commission-certified criminal justice training school, which shall ~~to~~ include a comprehensive examination; and demonstration of proficiency by successful completion of four out of five runs (80%) for each exercise recorded on a Law Enforcement Driving Instructor Performance Evaluation form CJSTC-7A ~~using the Basic Recruit Performance Evaluation Vehicle Operations form, CJSTC-7, effective November 1996, hereby incorporated by reference~~, to be certified to instruct specific specified law enforcement driving topics.

(d)4- Medical First Responder Instructor Certification.

1. An applicant shall be a certified emergency medical technician, certified paramedic, licensed physician, registered nurse, or a member of the Armed Forces of the United States on active duty, who at the time they became a member was entitled to practice as an Emergency Medical Technician (EMT) or paramedic in Florida, pursuant to Chapter 401, Part III, F.S., or

2. An applicant shall have successfully completed the Commission-approved Medical First Responder course effective July 1998, which shall include a comprehensive examination and demonstration of proficiency, recorded on a First Responder to Medical Emergencies Basic Recruit Performance Evaluation form CJSTC-5; and

3. An applicant shall possess a valid CPR instructor certification from the American Red Cross, the American Heart Association, or the National Safety Council, to be certified to instruct Medical First Responder procedures.

4. An applicant shall have successfully been trained in emergency medical procedures, or be a professional medical director, certified emergency medical technician, certified

paramedic, licensed physician, registered nurse, dentist, or any member of the Armed Forces of the United States on active duty, who at the time he became a member, was entitled to practice as an Emergency Medical Technician (EMT) or paramedic in the state, pursuant to Chapter 401, Part III, F.S., to be certified to instruct first responder emergency medical procedures, to include a comprehensive examination, and demonstration of proficiency using the Basic Recruit Performance Evaluation First Responder to Medical Emergencies form, CJSTC-5, effective November 1996, hereby incorporated by reference.

~~(e)5. Defensive Tactics Instructor Certification. An applicant shall have successfully completed the Commission-approved Defensive Tactics Instructor course Course, through a Commission-certified criminal justice training school, which shall ~~to~~ include a comprehensive examination and demonstration of proficiency, recorded on a using the Defensive Tactics Basic Recruit Performance Evaluation Defensive Taeties form; CJSTC-6, effective November 1996, hereby incorporated by reference, to be certified to instruct specific specified defensive tactics topics.~~

~~(f)6. Canine Team Instructor Certification. An applicant shall have successfully completed the Commission-approved Canine Team Instructor course Course, through a Commission-certified criminal justice training school, and fulfilled training and experience criteria pursuant to specified ~~in~~ the Criminal Justice Standards and Training Commission Policies and Procedures Mmanual, effective November 1996, hereby incorporated by reference, to be certified to instruct canine team training.~~

~~(g)7. Human Diversity Instructor Certification. An applicant shall have successfully completed the Commission-approved 24-hour Human Diversity Program included in the Commission's Basic Recruit Training Program, and the 20-hour Human Diversity Train-the-Trainer course Program, through a Commission-certified criminal justice training school, to be certified to instruct human diversity topics.~~

~~(h)8. Radar and Laser Instructor Certifications:~~

~~1. An applicant shall have successfully completed the Commission-approved Radar Instructor course and/or Laser Instructor Course, through a Commission-certified criminal justice training school, to be certified to instruct radar speed measurement training.~~

~~2. An applicant shall have successfully completed the Commission-approved Radar Instructor course and the Laser Instructor course through a Commission-certified criminal justice training school, to be certified to instruct in laser speed measurement training.~~

~~(2) Duration and renewal of instructor certification-~~

~~(a) Certificates will be issued every four (4) years from the date the training center director signs the instructor's application.~~

~~(b) The renewal application will be based on the submission of an updated application, and must be submitted to the Division six months prior to the instructor certification's expiration date. The certification will be renewed every four (4) years effective the month and day of the initial certification.~~

~~(c) To add specialized topics of instruction to the current instructor certification, the expiration date will be the same as the current instructor certification expiration date.~~

~~(d) The certification expiration date shall be four (4) years following the date of the training center director's signature on the Training Instructor Certification Application form, CJSTC-71. If the instructor certification expires, the instructor must make application for a new certification and must meet the following guidelines:~~

~~1. The training center director, or his/her designee, must evaluate the instructor's proficiency as an instructor by completing the Instructor Competency Checklist form, CJSTC-81, prior to signing the instructor's application for certification. The new Instructor Competency Checklist must be maintained in the instructor file;~~

~~2. An instructor who is seeking certification in one of the below high-liability topics, speed measurement or canine, must demonstrate proficiency in each subject for which he/she seeks certification, pursuant to Rule 11B-35.0024, F.A.C. The instructor shall successfully demonstrate proficiency using the following applicable proficiency checklist forms:~~

~~a. Firearms form CJSTC-4.~~

~~b. First Responder to Medical Emergencies form CJSTC-5.~~

~~c. Defensive Tactics form CJSTC-6.~~

~~d. Vehicle Operation form CJSTC-7.~~

~~e. Laser/Radar Speed Measurement Device Instructor Field Evaluation form, CJSTC-10, effective November 1996, hereby incorporated by reference.~~

~~f. Canine form, CJSTC-83, effective November 1996, hereby incorporated by reference.~~

~~3. If the instructor fails to demonstrate proficiency, pursuant to Rule 11B-20.001(2)(d)2., F.A.C., he/she must meet the requirements pursuant to Rule 11B-20.001(1)(a)-(e), (e) and (f), F.A.C.~~

~~4. If the instructor fails to demonstrate proficiency, pursuant to Rule 11B-20.001(2)(d)2., F.A.C., for any subject or subjects in which he/she seeks certification, the instructor must meet the requirements established for certification in such subject or subjects pursuant to Rule 11B-20.001(1)(f), F.A.C.~~

~~5. Instructors requesting renewal of certification after January 1, 1994, must complete the Commission-approved 20-hour Human Diversity Train-the-Trainer Program, or the 8-hour Instructor Awareness of Human Diversity Concepts Program. The requirements must be completed for re-certification only once during the instructor's career.~~

(3) On or after the effective date of this rule, any person certified as a criminal justice training instructor shall sign an Instructor Certification Application form, CJSTC-71, effective November 1996, hereby incorporated by reference, that affirms the following qualifying factors to be true:

(a) Not have been convicted of any felony or of a misdemeanor involving perjury or false statement, or have received a dishonorable discharge from any of the Armed Forces of the United States.

(b) Not, after July 1, 1981, have pled guilty or nolo contendere or have been found guilty of any felony or of a misdemeanor involving perjury or a false statement, notwithstanding suspension of sentence or withholding of adjudication.

(4) Exemption from general instructor certification. An instructor may be exempt from the Criminal Justice Standards and Training Commission instructor certification in all areas except firearms, driving, first responder, defensive tactics, and canine, under the following circumstances:

(a) The instructor is a full-time instructor at an accredited community college, college, or university. The training center director must document the instructor's full-time status and identify the name and location of the community college, college, or university, using an Instructor Exemption form, CJSTC-82; the instructor must have specific knowledge of the subject matter to be taught. This knowledge will be determined by the training center director and documentation maintained in the instructor file.

(b) The instructor is a full-time vocational-technical instructor. The training center director must document the instructor's full-time status and identify the name and location of the vocational-technical institution, using an Instructor Exemption form, CJSTC-82. The instructor must be qualified in the specific subject matter to be taught. The documentation must be maintained in the instructor file.

(c) The instructor holds a current, valid instructor certification from another state or the military. The applicant must complete an internship pursuant to Rule 11B-20.001(1)(e), F.A.C. The training center director must include a copy of the instructor's out-of-state or military certification, documentation describing the internship, completion of the Instructor Competency Checklist form, CJSTC-81, and the Instructor Exemption form, CJSTC-82. The documentation must be maintained in the instructor file.

(d) The instructor is uniquely qualified in a specific subject matter. The training center director must document the instructor's unique qualifications on an Instructor Exemption form, CJSTC-82. The documentation must be maintained in the instructor file.

(e) The instructor is teaching as a result of exceptional circumstances. The instructor must be qualified in the specific subject matter to be taught, regardless of the exceptional circumstance. The training center director must document the

qualifications of the instructor, using an Instructor Exemption form, CJSTC-82, and the exceptional circumstance under which the instructor is teaching. The documentation must be maintained in the instructor file.

(5) An Application for Instructor Certification Deficiency Notification form CJSTC-271, January 21, 1999, hereby incorporated by reference, shall be completed by a Commission Field Specialist upon an unfavorable inspection of required documents. The CJSTC-271 form shall indicate any deficiencies in the Instructor Certification Application form CJSTC-71, including any missing or incorrect documentation required for instructor certification, pursuant to the Criminal Justice Standards and Training Commission Policies and Procedures Manual.

(6)(5) Denial of Certification. An application for certification as a Commission-certified criminal justice training school instructor shall will be denied by the Commission if the applicant fails to meet the qualifications pursuant to this rule chapter set forth in Rule 11B-20.001, F.A.C. Commission staff The Division shall forward to the applicant a "notice of intent to deny certification" which shall specify the grounds for denial. A denial of application shall be processed pursuant to Chapter 120, F.S.

(7)(6) All forms and the Criminal Justice Standards and Training Commission Policies and Procedures Manual referenced in this rule chapter, may be obtained by contacting the Florida Department of Law Enforcement, Criminal Justice Professionalism Program Division of Criminal Justice Standards and Training, Post Office Box 1489, Tallahassee, Florida 32302-1489, Attention: Bureau of Standards, Forms and/or Manual Liaison.

Specific Authority 943.03(4), 943.12(1) 943.14(3) FS. Law Implemented 943.12(3),(9), 943.14(3),(8) FS. History—New 7-21-82, Formerly 11B-20.01, Amended 10-26-88, 5-14-92, 12-8-92, 1-10-94, 1-2-97, _____.

11B-20.0012 Revocation of Certification.

(1) The certification of a criminal justice training instructor shall be revoked if an the instructor fails to meet maintain any of the requirements pursuant to Rule 11B-20.001(1)(g), (3)(a)-(b), F.A.C., or, who:

(a) Willfully compromises the security and confidentiality of examinations or grading keys developed and used utilized in Commission-approved criminal justice training courses, or engages in any other conduct that which subverts or attempts to subvert the Criminal Justice Standards and Training Commission State Officer Certification Examination process.

(b) Willfully compromises or circumvents the trainee attendance requirements set forth in Rule 11B-35.001(7)-(8), F.A.C.

(c) Willfully compromises or circumvents the trainee performance requirements pursuant to set forth in Rule 11B-35.002, F.A.C.

(d) Intentionally and materially falsifies criminal justice documentation.

(e) Commits an act or acts establishing gross incompetence, as determined by the Commission.

(f) Commits an act or acts establishing a "lack of good moral character," as defined in Rule 11B-27.0011(4), F.A.C., and pursuant to 11B-20.001(1)(g), F.A.C.

(2) Should a Probable Cause Hearing Panel of Commission members find probable cause that a Commission-certified criminal justice training instructor has violated paragraph (1) of this rule section, revocation proceedings shall be conducted pursuant to Chapter 120, F.S. Any ground for revocation concerning a Commission-certified criminal justice training instructor made known to Commission staff by a verifiable complaint issued the Division by the training center director, by a verifiable complaint, or revealed by an a Division audit performed by Commission staff, shall be investigated by Commission staff the Division. A training center director having good cause to believe that a Commission-certified criminal justice training instructor has violated paragraph (1) of this rule section, shall promptly notify Commission staff the Division and forward any supporting documentation information to Commission staff the Division.

(3) Commission action taken against an officer's certification, pursuant to Rule 11B-27.005(9), F.A.C., shall also be applicable against an the officer's instructor certification.

Specific Authority 943.03(4), 943.12(1), (9) FS. Law Implemented 943.12(3), (9), 943.14(3), (8) FS. History--New 10-26-88, Amended 1-2-97, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: OMCI Donna Hunt, FDLE, Criminal Justice Professionalism Program

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Program Director A. Leon Lowry, II, FDLE, Criminal Justice Professionalism Program

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: December 8, 1998

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN THE FAW: November 13, 1998

DEPARTMENT OF LAW ENFORCEMENT

Criminal Justice Standards and Training Commission

RULE CHAPTER TITLE: Certification of Criminal Justice Training Schools

RULE CHAPTER NO.: 11B-21

RULE TITLES: Advise ment 11B-21.001

Request for Certification 11B-21.002

Certification Codes 11B-21.004

Criminal Justice Training School Requirements for Certification 11B-21.005

Official Inquiry 11B-21.010

Denial of Certification or Renewal of Certification 11B-21.017

Revocation of Certification 11B-21.018

PURPOSE AND EFFECT: The purpose and effect of the proposed rule revisions are to correct and add rule and statutory references; to comply with statutory language in Section 943.10, F.S., regarding the correct name cite for training schools; to comply with 1998 Legislation amending Section 943.09, F.S., changing the name of the "Division of Criminal Justice Standards and Training," to the "Criminal Justice Professionalism Program"; to comply with 1998 Legislation amending Section 943.10(12), F.S., changing the reference of "Division" to "Program." Pursuant to Section 943.09, F.S., program staff are also Commission staff who support the Commission, therefore the reference to "Division" has been changed in Rule Chapter 11B-21 to "Commission staff"; to reconstruct sentences for rule clarification; to incorporate grammatical revisions; to replace "may and must" with "shall, when applicable; to repeal Rule 11B-21.010, F.A.C., due to lack of statutory authority; to clarify that any school denied Commission certification may reapply or petition the Commission for certification; to add new language to Rules 11B-21.017(2), and 11B-21.018(4), F.A.C., giving direction to training entities regarding reapplication with the Commission to become a Commission-certified criminal justice training school; to delete references to repealed rules, and to reference the Department of Education's State Requirements for Educational Facilities (SREF) pursuant to Rule 6A-2.0111, F.A.C., for compliance with building codes for educational facilities.

SUMMARY: Rule Chapter 11B-21, F.A.C., is being revised to incorporate housekeeping revisions due to Legislative revisions to Chapter 943, F.S., clarify existing rule language regarding reapplication for criminal justice training school certification and criminal justice training school requirements for certification; and incorporate technical revisions regarding statute and rule cites, spelling, and grammar.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: None.

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

SPECIFIC AUTHORITY: 943.03(4), 943.12(1) FS.

LAW IMPLEMENTED: 943.12(3), (5), (7), (9), 943.14(3), 943.14 FS.

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

TIME AND DATE: 4:15 p.m., May 3, 1999

PLACE: 2331 Phillips Road, Elevator Conference Room, Quad C, 3rd Floor, Tallahassee, Florida 32308-1489

NOTICE UNDER THE AMERICANS WITH DISABILITIES ACTS: Please contact Donna Hunt, Florida Department of Law Enforcement, Criminal Justice Professionalism Program, 2331 Phillips Road, Tallahassee, Florida 32308-1489.

Pursuant with the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this program, please advise the Department at least 2 weeks prior to the workshop by contacting Donna Hunt at TDD#: (850)656-9597.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Donna Hunt, Florida Department of Law Enforcement, Criminal Justice Professionalism Program, 2331 Phillips Road, Tallahassee, Florida 32308-1489, (850)410-8615

THE FULL TEXT OF THE PROPOSED RULES IS:

11B-21.001 Advisement.

(1) Each Commission-certified criminal justice training school ~~certified by the Criminal Justice Standards and Training Commission,~~ shall establish a method for receiving advisement from the employing agencies served by the training school. The advisement method ~~shall~~ may consist of an established advisory committee, a ~~Regional Training Council,~~ or any other method agreed upon by the training school and agencies in the service area.

(2) The purpose of such advisement shall be to provide information concerning training needs ~~need for training,~~ numbers of trainees to be enrolled, types of training courses to be offered, effectiveness of training, and other information that may be useful to ~~the~~ Commission-certified criminal justice training schools.

Specific Authority 943.03(4), 943.12(1) FS. Law Implemented 943.12(5), 943.14 FS. History—New 7-21-82, Amended 1-26-83, 9-1-83, 1-28-86, Formerly 11B-21.01, Amended 1-2-97, _____.

11B-21.002 Request for Certification.

(1) Training entities requesting a Commission-certified criminal justice ~~Every training entity seeking~~ training school certification, or an expansion of a current certification, shall apply to the Commission by completing and submitting to Commission staff using an Application for Training School Certification form; CJSTC-29, April 1, 1991, effective November 1996, hereby incorporated by reference. In all cases, the application for certification shall show that the certification is for the use of the training entity requesting certification applicant.

(2) Each Florida 4-year accredited college or university that requests, ~~which seeks~~ to offer Commission-approved training courses, shall request approval from the Commission ~~to utilize Commission courses.~~ A College and University Program Approval form; CJSTC-30, November 1, 1997,

hereby incorporated by reference, shall be completed and submitted to Commission staff used to request approval to offer for utilization of Commission courses.

~~(3) The completed application/approval form, CJSTC-30, shall be submitted to the Division.~~

~~(3)(4)~~ The training entity requesting training school certification, shall also obtain applicant will solicit approval from the Regional Training Council in its area.

~~(4)(5)~~ Commission staff Division staff shall conduct a training needs analysis for the region or local training area intended to be served by the training entity requesting training school certification applicant.

~~(5)(6)~~ Commission staff The Division shall make a formal recommendation to the Commission based upon the training needs analysis and other pertinent information that may affect the certification of the training entity.

~~(6)(7)~~ Certification shall continue in effect for five (5) years beginning with the award of a certificate. Within a five (5) year period after certification, each Commission-certified criminal justice training school shall be officially evaluated by a Commission-appointed certification team to determine continued compliance with the qualification requirements of Section Rule Chapter 11B-21.002, F.A.C. The Commission ~~shall~~ may award renewal certificates to Commission-certified criminal justice training schools ~~that who~~ meet the qualification requirements for a training school training school qualification requirements.

~~(7)(8)~~ Any criminal justice training school or agency that has been denied to which Commission certification as a criminal justice training school, and any training school or agency for which Commission has been denied, or whose certification has lapsed or has been revoked, may reapply or petition the Commission for certification ~~no sooner than~~ six (6) months after such action is effective. The Commission ~~shall~~ may require a hearing, at which time the affected criminal justice training school or agency shall show cause why its application for certification should be accepted, or its petition granted.

~~(8)(9)~~ All The form(s) and the Criminal Justice Standards and Training Policies and Procedures Manual referenced in this rule chapter, may be obtained by contacting the Florida Department of Law Enforcement, Criminal Justice Professionalism Program, Division of Criminal Justice Standards and Training, Post Office Box 1489, Tallahassee, Florida 32302-1489, Attention: Director's Office, Forms Liaison.

Specific Authority 943.03(4), 943.12(1) FS. Law Implemented 943.12(3), ~~(7)(5),~~ 943.14 FS. History—New 7-21-82, Amended 1-28-86, Formerly 11B-21.02, Amended 12-13-92, 1-2-97, _____.

11B-21.004 Certification Codes.

Each Commission-certified criminal justice training school's certification shall be categorized ~~determined~~ by the Commission as a type "A", "B", or "C" certification, and given a certification code. Certification codes are defined as follows:

(1) Type A – Instruction of courses within the Basic Recruit Training Program for all disciplines as well as all Career Development, Advanced, and Specialized Training Programs.

(2) Type B – Instruction of courses within the Basic Recruit Training Program for law enforcement and all Career Development, Advanced, and Specialized Training Programs.

(3) Type C – Instruction of courses within the Basic Recruit Training Program for correctional and correctional probation and all Career Development, Advanced, and Specialized Training Programs.

Specific Authority 943.03(4), 943.12(1) FS. Law Implemented 943.12 (3), (7), (5), 943.14 FS. History—New 7-21-82, Formerly 11B-21.04, Amended 1-28-86, 7-13-87, 6-2-91, _____.

11B-21.005 Criminal Justice Training School Requirements for Certification.

All criminal justice training schools certified by the Commission on or after July 1, 1990, shall must meet the following requirements:

(1) Facilities and Equipment. All Commission-certified criminal justice training schools and their satellite sites shall meet or exceed the following facility and equipment specifications:

(a) Compliance with State Requirements for Educational Facilities (SREF), pursuant to Department of Education's Rule 6A-2.0111, F.A.C., effective April 28, 1997, for compliance with building codes for educational facilities, and with local and state regulations relating to fire, health, and building standards, as such standards are applicable to public access facilities. Specific requirements relating to occupancy, lighting, floor space, equipment, and library access, are is included in within the Criminal Justice Standards and Training Commission Policies and Procedures Manual, effective revised January 1999 ~~November 1996~~, hereby incorporated by reference.

(b) If a Commission-certified criminal justice training school conducts training in basic law enforcement driving, at least one driving range shall be designated for criminal justice training, and shall be is adequate in size and designed to safely conduct the Law Enforcement Basic Recruit Driving course effective, which was established by the Commission on July 1, 1988.

(c) Each driving range constructed after July 1, 1988, shall include the following specifications:

1. A paved area at least 300 feet by 600 feet in size surrounded by an unobstructed run-off area.

2. A paved skid pad area at least 24 feet by 200 feet in size, ~~and~~ situated off public roadways.

3. Should any driving range proposed for construction after July 1, 1988, deviate from this standard, plans for such construction shall must be submitted to Commission staff the Division for initial review, and then to the Commission for final approval or disapproval. Justification for such construction shall must include a statement of explanation and any supporting documentation justifying the need to deviate from the established standard. Such requests shall will be evaluated by the Commission, only after determined by appropriate subject matter experts that all basic driving exercises can be safely and effectively performed.

4. All ranges, regardless of the date of construction, shall be secured by barriers from through traffic while training is being conducted on the range.

5. Warning signs posted at all vehicle access points to the driving range shall must clearly identify the area as a "law enforcement training driving range;" and restrict access to criminal justice trainees, criminal justice instructors, and personnel authorized by the training center director.

6. Each driving range shall be equipped with at least 100 orange or yellow traffic cones of a minimum height of 12 inches, 2 fire extinguishers rated at 10 BC, or its equivalent, and an emergency first aid kit.

7. Each Commission-certified criminal justice training school shall use must utilize at least one (1) automobile for criminal justice driving training.

8. Restrooms, drinking water, and a rain-resistant shelter shall be provided for personnel engaged in training on the driving range.

(d)(e) If a Commission-certified criminal justice training school conducts training in basic law enforcement, correctional corrections, or correctional probation, there shall must be a suitable area designated for criminal justice defensive tactics instruction. Each defensive tactics area shall must include the following training equipment:

1. Cushioned floor matting that is at least 80 square feet in size.

2. One set of handcuffs with a handcuff key; and a police training baton, or other such impact weapon; for every two (2) students actively and physically engaged in defensive tactics instruction.

3. Each defensive tactics area shall also include at least one emergency first aid kit.

(e)(d) If a Commission-certified criminal justice training school conducts training in basic law enforcement, correctional corrections, or correctional probation, there shall must be at least one (1) firearms firing range designed for criminal justice firearms instruction as follows:

1. Each firing range shall must be designed with a bullet impact back-stop that which will stop; and render harmless, bullets fired into it; from handguns or shotguns; from the firing positions at the firing line, without ricocheting projectiles or debris, or striking individuals persons at the firing line.

2. Each firing range ~~shall~~ ~~must~~ have a minimum of five (5) firing positions with two (2) targets for each position; ~~that~~ ~~which~~ are color coded or numbered.

3. Barriers ~~used~~ ~~utilized~~ from a firing position ~~shall~~ ~~must~~ be securely braced.

4. Targets ~~shall~~ ~~must~~ be illuminated by natural or artificial light to be clearly visible from all firing positions.

5. Each firing range ~~shall~~ ~~must~~ be designed to accommodate a range supervisor, and provide an observation position for ~~the range~~ ~~such~~ supervisors ~~that~~ ~~which~~ allows an unobstructed view, simultaneously, of all firing positions, all targets, and the bullet impact back-stop.

6. Each firing range ~~shall~~ ~~must~~ be equipped with an operational public address system; of sufficient volume, to be audible to ~~individuals~~ ~~persons~~ wearing ear plugs or other hearing protection; while firearms are being discharged.

7. When in use, a firing range ~~shall~~ ~~must~~ be equipped with an operational telephone or radio communications; and an industrial first aid kit.

8. Access to the ~~firing~~ range ~~shall~~ ~~must~~ be restricted to criminal justice trainees, criminal justice instructors, and personnel authorized by the training center director, when firearms training is being conducted.

9. Warning signs posted at all access points to the firing range; ~~shall~~ ~~must~~ clearly identify the area as a criminal justice training firing range; ~~and~~ ~~restrict~~ ~~access~~ ~~to~~ ~~trainees,~~ ~~instructors,~~ ~~and~~ ~~authorized~~ ~~personnel.~~

10. Restrooms, drinking water, and a rain-resistant shelter; shall be provided for personnel engaged in firearms training on the range.

11. ~~Firing~~ ~~Firearms~~ ranges and associated equipment; ~~shall~~ ~~must~~ be maintained in proper working order to ensure safety of shooters and instructors.

12. Indoor ~~firing~~ ranges shall rely on ~~the~~ manufacturer's specifications for safety and efficient range operation.

13. All firearms training ~~shall~~ ~~must~~ be conducted under the direct supervision of the training center director or ~~his/her~~ designee.

(2) Employed Personnel. All Commission-certified criminal justice training schools ~~shall~~ ~~must~~ employ personnel who meet the following specifications:

(a) One full-time salaried criminal justice training center director; designated by the Commission-certified criminal justice training school, and employed on a 12 month calendar with faculty or administrative status, whose responsibilities are the management and quality control of the criminal justice training school program, and do not include a teaching assignment. Any additional administrative responsibilities or any instructional responsibilities ~~shall~~ ~~may~~ not be undertaken by the director, unless approved by the Commission, upon a finding that such additional responsibilities would not interfere with the director's effective management of the ~~criminal~~ ~~justice~~ training school. A director initially employed on or after

July 1, 1990, ~~shall~~ ~~must~~ at minimum, hold a bachelor's degree from an accredited college or university, and possess no less than two (2) years experience in the criminal justice field. Training center directors shall be responsible for the scheduling, presentation, and general local management of the criminal justice training programs, which shall include, for example, ~~but not be limited to,~~ preparation of required reports and records, assuring quality of instruction, administration, and security of examinations.

(b) At least one (1) full-time clerk ~~or~~ ~~administrative~~ assistant; assigned to report to the training center director, whose responsibilities are restricted to providing assistance to the director ~~in his or her capacity as such.~~ Two (2) or more ~~individuals~~ ~~persons~~ may perform such clerk ~~or~~ ~~administrative~~ assistant duties, provided that the aggregate personnel time dedicated to these duties, is equivalent, at minimum, to a full-time position.

(c) At least two (2) full-time criminal justice training instructors or instructional coordinators; assigned to report to the training center director. Three (3) or more ~~individuals~~ ~~persons~~ may perform such instruction ~~and~~ ~~instructional~~ coordination duties, provided that the aggregate personnel time dedicated to these duties is equivalent, at minimum, to two (2) full-time positions. In the absence of the director, at least one (1) full-time instructor ~~and~~ ~~instructional~~ coordinator, or ~~another individual~~ ~~other person~~ specifically designated by the director, ~~shall~~ ~~must~~ be accessible while criminal justice training is being administered, and ~~shall~~ ~~must~~ be responsible for quality control.

(d) Instructors who teach Commission-approved training programs shall comply with the provisions ~~outlined~~ in Rule Chapter 11B-20, F.A.C.

(3) Designated Personnel. The director at each Commission-certified criminal justice training school ~~shall~~ ~~must~~ designate an individual responsible for coordination of courses, scheduling of instructors, facilities and materials, and for addressing student-related concerns in each of the following specified areas:

(a) At least one individual responsible for teaching and coordinating law instruction.

(b) At least one individual responsible for teaching and coordinating criminal justice investigation.

(c) At least one individual responsible for teaching and coordinating criminal justice applied human behavior.

(d) At least one individual responsible for teaching and coordinating law enforcement and correctional ~~corrections~~ procedures.

(4) A Commission-certified criminal justice training school that intends to deliver Commission-approved courses at a satellite site outside its service area, ~~shall~~ ~~must~~ obtain approval from the affected Regional Training Council(s), prior to delivery of such courses. In addition, the school ~~shall~~ ~~must~~ comply with the public education requirements pursuant to

applicable Florida Statutes and Criminal Justice Standards and Training Commission rules. Notification of such action shall ~~must~~ be submitted ~~made~~ to the Commission.

(5) A Commission-certified criminal justice training school shall ~~must~~ maintain records that ~~which~~ confirm compliance with this rule section.

(6) A Commission-certified criminal justice training school shall provide instruction to meet ~~in accordance with the~~ training needs of the service area.

(7) A Commission-certified criminal justice training school shall abide by all of the requirements for administration and instruction of Commission-approved training courses.

~~(8) The Criminal Justice Standards and Training Commission Policies and Procedures manual referenced in this rule may be obtained by contacting the Florida Department of Law Enforcement, Division of Criminal Justice Standards and Training, Post Office Box 1489, Tallahassee, Florida 32302, Attention: Director's Office, Forms and/or Manual Liaison.~~

Specific Authority 943.03(4), 943.12(1) FS. Law Implemented 943.12(3),(5),(7), 943.14 FS. History—New 7-21-82, Formerly 11B-21.05, Amended 1-28-86, 8-30-89, 12-24-89, 6-3-91, 12-13-92, 1-2-97, _____.

11B-21.010 Official Inquiry.

~~When the Criminal Justice Standards and Training Commission receives notice or requests, or has knowledge of any matter which may affect the granting or revoking of the certificate of a certified criminal justice training school, it shall conduct an official inquiry to discover or procure evidence as part of a fact-finding process. A notice of such inquiry shall be provided to the training center director.~~

~~(1) The official inquiry will follow the procedures as outlined below:~~

~~(a) Division staff will conduct a survey to determine if course offerings coincide with service area needs.~~

~~(b) Division staff will review interim reports from the Division Field Specialists, to tabulate infractions against policies pursuant to this rule.~~

~~(c) A fact-finding team will conduct a site visit and report any findings to the Division.~~

~~(d) Upon finding of probable cause a report, prepared by the Division, will be presented to the respective Regional Training Council for review.~~

~~(e) The Regional Training Council may provide a recommendation to the Division prior to final Commission action.~~

~~(f) The Division will make a formal recommendation to the Commission, which shall contain supporting documents.~~

~~(2) The information obtained from the official inquiry outlined in paragraph (1) of this rule, shall be used by the Commission to determine whether probable cause exists to issue an Administrative Complaint to revoke a certificate, or to issue a statement denying a request for certification.~~

Specific Authority 943.12(1) FS. Law Implemented 943.12(5), 943.14 FS. History—New 7-21-82, Amended 1-28-86, Formerly 11B-21.10, Amended 12-13-92, 8-7-94, 1-2-97, Repealed.

11B-21.017 Denial of Certification or Renewal of Certification.

(1) Application for certification, or renewal of certification as a criminal justice training school, shall ~~will~~ be denied by the Commission if the training school applicant fails to meet the requirements in Rule 11B-21.005, F.A.C. Commission staff ~~The Division~~ shall forward to the training school applicant a notice of intent to deny certification, or renew ~~renewal of~~ certification, which shall specify the grounds for denial of the certification. The ~~A~~ denial of application for certification or renewal of certification process shall be conducted pursuant to Chapter 120, F.S.

(2) A training entity that has applied for and has been denied Commission certification as a criminal justice training school, may reapply or petition the Commission for certification pursuant to the provisions of Rule 11B-21.002(7), F.A.C.

Specific Authority 943.03(4), 943.12(1), ~~943.14~~ FS. Law Implemented 943.12(3),(7), 943.14 FS. History—New 9-17-89, Amended 1-2-97, _____.

11B-21.018 Revocation of Certification.

(1) The certification of a Commission-certified criminal justice training school shall be revoked if the following violations occur:

(a) If a Commission-certified criminal justice training school fails to maintain compliance with the requirements pursuant to ~~with~~ Rule 11B-21.005, F.A.C.

(b) If a Commission-certified criminal justice training school fails to comply with Rule Chapter 11B-18, F.A.C., that ~~which~~ regulates the administration, expenditure, and accounting of Criminal Justice Standards and Training Trust Funds.

(c) If a Commission-certified criminal justice training school fails to notify the Commission of acts committed by Commission-certified criminal justice training instructors; that ~~which~~ constitute grounds for revocation of instructor certification pursuant to Rule 11B-20.0012(1), F.A.C.

(d) If a Commission-certified criminal justice training school fails to comply with trainee attendance and performance standards pursuant to Rule 11B-35.001(7)-(8), F.A.C.

(e) If a Commission-certified criminal justice training school fails to comply with the Criminal Justice Standards and Training Commission rules and Policies and Procedures Manual ~~olicies~~ that regulate Commission-approved training programs; pursuant to Rule Chapters 11B-21, and 11B-30, F.A.C., ~~and the Criminal Justice Standards and Training Commission Policies and Procedures manual.~~

~~(2) If the Criminal Justice Standards and Training Commission receives notice, requests, or has knowledge that a violation has occurred that may affect the certification of a certified criminal justice training school, it shall conduct an official inquiry pursuant to Rule 11B-21.010, F.A.C.~~

~~(2)(3) Information~~ The information obtained from the written complaint or other documentation, official inquiry shall be used by the Commission to determine whether probable cause exists to justify the initiation of an administrative action against the Commission-certified criminal justice training school's certificate. Should a Probable Cause Hearing panel of the Commission members find probable cause to believe that ~~the a certified criminal justice~~ training school has committed substantial violations of Commission rules, the Commission shall will:

- (a) Issue an Administrative Complaint, or.
- (b) Resolve the case pursuant to Section 120.569 ~~120.57(3)~~, F.S.

~~(3)(4) Should the Commission revoke the certification of a Commission-certified criminal justice training school, the Commission staff Division shall will~~ schedule an audit and inventory of class file documentation, monies, equipment, and property that has been acquired by the training school with Criminal Justice Standards and Training Trust Fund monies. This audit and inventory shall be conducted within thirty (30) calendar days from the date the Commission took action on the training school's certification as follows:-

(a) A ~~Division~~ team composed of Commission Field Services and Trust Fund staff shall personnel will conduct the audit and inventory.

(b) Upon completion of the audit and inventory, the training school shall submit any unexpended unspent Criminal Justice Standards and Training Trust Fund monies, and return any equipment; or and property acquired with trust fund monies to the designated Commission Division Field Specialist. The transfer of Trust Fund property purchased with Trust Fund monies shall must be completed within thirty (30) calendar days from the date the audit and inventory is completed.

(c) In addition, within thirty (30) calendar days from the completion date of the audit and inventory, the Commission-certified criminal justice training school shall submit to the designated Commission Division Field Specialist, the class file records necessary to verify student attendance and performance at any Commission-approved training course conducted by the school; or provide written documentation that the school shall will honor all requests for information and verification of data contained in the class files.

(d) Upon receipt of any property, monies, equipment, or class file records from a Commission-revoked criminal justice training school; whose certification has been revoked, the

designated Commission Division Field Specialist shall will meet with representatives of the affected Regional Training Ceouncil to schedule a disposition of the property.

(4) A training entity whose Commission certification has been revoked, may reapply or petition the Commission for certification pursuant to the provisions of Rule 11B-21.002(7), F.A.C.

Specific Authority 943.03(4), 943.12(1) FS. Law Implemented 943.12(3), 943.14 FS. History--New 10-17-90, Amended 12-13-92, 8-7-94, 1-2-97, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
OMCI Donna Hunt, FDLE, Criminal Justice Professionalism Program

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Program Director A. Leon Lowry, II, FDLE, Criminal Justice Professionalism Program

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: December 8, 1998

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN THE FAW: November 13, 1998

DEPARTMENT OF LAW ENFORCEMENT

Criminal Justice Standards and Training Commission

RULE CHAPTER TITLE: Certification and Employment

RULE CHAPTER NO.:

or Appointment 11B-27

RULE TITLES: Moral Character 11B-27.0011

Certification, Employment or Appointment, and Terminating Employment or

Appointment of Officers 11B-27.002

High School Graduation or Equivalent 11B-27.0021

Background Investigations 11B-27.0022

Controlled Substance Testing Procedures 11B-27.00225

Issuance and Maintenance of Certification 11B-27.0023

Reactivation of Certification 11B-27.0026

Duty to Report, Investigations, Procedures 11B-27.003

Probable Cause Determination 11B-27.004

Revocation or Disciplinary Actions;

Disciplinary Guidelines; Range of

Penalties; Aggravating and

Mitigating Circumstances 11B-27.005

Denial of Certification 11B-27.007

Default 11B-27.010

Recommended Order 11B-27.011

Canine Team Certification 11B-27.013

PURPOSE AND EFFECT: The purpose and effect of the proposed rule revisions are to add and correct rule and statutory references; to make grammatical revisions; to reconstruct sentences for clarification of rule language; to comply with Section 943.10, F.S., regarding correct name cites; to comply with 1998 Legislation amending Section 943.09, F.S., changing the name of the "Division of Criminal

Justice Standards and Training,” to the “Criminal Justice Professionalism Program;” and to comply with 1998 Legislation amending Section 943.10(12), F.S., changing the reference of “Division” to “Program.” Pursuant to Section 943.09, F.S., program staff are also Commission staff who support the Commission, therefore the reference to “Division” has been changed in Rule Chapter 11B-27 to “Commission staff” to comply with statutory language in Section 943.10, F.S.; to clarify the acts or conduct that constitute perpetration by an officer; to implement a system to verify employing agency data with officer data entered into the Commission’s automated training management system (ATMSII); to add form CJSTC-61A, which is the second page of the Affidavit of Separation form CJSTC-60, which is required to be completed by agencies; to define the difference between a Standard and Special diploma for the purpose of becoming a certified criminal justice officer; to amend Rule 11B-27.00225, F.A.C., to bring the Commission’s drug testing policy into compliance with the Florida Drug-Free Workplace Act for the purpose of remaining consistent without constant revision of Commission rule; to implement a new Mandatory Retraining Program regarding the new 8-hour block of human diversity mandatory retraining; to change the hourly requirement for mandatory retraining from 16 hours every four years to 8 hours every four years concerning human diversity; to change the name of the Certification Examination Review Course to the Officer Certification Examination Qualification Course, which is required to be completed as a prerequisite for certificate reactivation and reemployment of an officer; to require an employing agency to conduct, complete, and forward to the Commission an internal investigation report, which shall contain an official disposition even though the officer under investigation separates from employment by voluntary resignation, retirement, and or termination; to revise penalties imposed upon officers who have violated Section 943.13(7), F.S., Good Moral Character; to add new language that allows an alternative signature for canine instructors applications; to require specific canine records and documentation; to incorporate form CJSTC-83, General Duty K-9 Team Proficiency Examination; to incorporate the “Recommended Use of Force and Levels of Resistance Matrix”; to incorporate into the Criminal Justice Policies and Procedures Manual the following forms: The Temporary Employment Authorization form CJSTC-65, the FBI Applicant Fingerprint Card form FD258 and the Application for Certification form CJSTC-59, The Application for Officer Certification Deficiency Notification form CJSTC-259, and the Application for K-9 Team Certification Deficiency Notification form CJSTC-270 have been added as a new form to record certification deficiencies, and the CJSTC-59 form has been added as a new form to differentiate between registering an applicant for employment and applying for certification, and will be required upon meeting the requirements of Section 943.13(1) through (10), F.S.; to delete the reference to “periodic reports

to the Commission” regarding the reported status of each officer probation period; to allow the following forms to be submitted, or information on the form to be electronically transmitted: Fingerprint Notification form CJSTC-62, Affidavit of Separation form CJSTC-61, Equivalency of Foreign/Non-Public High School Curriculum form CJSTC-35, Affidavit of Compliance form CJSTC-60, Employment Background Investigation Report form CJSTC-77, and Mandatory Retraining form CJSTC-74; to correct rule titles and other significant titles within Rule Chapter 11B-27, F.A.C.; to add “false statements” to the list of felony offenses and to rename existing offenses; to revise the list of penalties imposed by the Commission for acts or conduct that do not constitute a crime; and to revise the list of aggravating circumstances to support the Commission’s deviation from the established disciplinary guidelines.

SUMMARY: Rule Chapter 11B-27, F.A.C. is being revised to incorporate housekeeping revisions due to amendments to Chapter 943, F.S.; to incorporate new forms; to update procedures for existing forms; and to clarify rule language and implement new policy concerning moral character, certification and employment, background investigations, controlled substance testing procedures, revocation or disciplinary actions, disciplinary guidelines and range of penalties, aggravating circumstances and canine team certification.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: None.

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

SPECIFIC AUTHORITY: 943.03(4), 943.12(1) FS.

LAW IMPLEMENTED: 943.12, 943.13, 943.131, 943.133, 943.135, 943.139, 943.1395(3),(5),(6),(7), 943.14(1)-(3), 943.1701, 943.1716, 943.19, 943.253, 120.60, 120.62, 120.54(5) FS.

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

TIME AND DATE: 4:30 p.m., May 3, 1999

PLACE: 2331 Phillips Road, Elevator Conference Room, Quad C, 3rd Floor, Tallahassee, Florida 32308-1489

NOTICE UNDER THE AMERICANS WITH DISABILITIES ACTS: Please contact Donna Hunt, Florida Department of Law Enforcement, Criminal Justice Professionalism Program, 2331 Phillips Road, Tallahassee, Florida 32308-1489.

Pursuant with the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this program, please advise the Department at least 2 weeks prior to the workshop by contacting Donna Hunt at TDD#: (850)656-9597.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Donna Hunt, Florida Department of Law Enforcement, Criminal Justice Professionalism Program, 2331 Phillips Road, Tallahassee, Florida 32308-1489, (850)410-8615

THE FULL TEXT OF THE PROPOSED RULES IS:

11B-27.0011 Moral Character.

(1) For the purpose of certification, employment, or appointment, pursuant to ~~with~~ procedures established by Rule 11B-27.002(1)(g) and 11B-27.00225, F.A.C., the employing agency is responsible for conducting a thorough background investigation, to determine the moral character of an applicant; pursuant to Section 943.13(7), F.S.

(2) The unlawful use of any ~~of the~~ controlled substances; pursuant to Rule 11B-27.00225, F.A.C., by an applicant for certification, employment, or appointment, at any time proximate to the submission of such application for certification, employment, or appointment, conclusively establishes that the applicant is not of good moral character pursuant to as required by Section 943.13(7), F.S. The unlawful use of any ~~of the~~ controlled substances specified in Rule 11B-27.00225, F.A.C., by an applicant ~~at any time remote from and not proximate to such application,~~ may or may not conclusively establish that the applicant is not of good moral character pursuant to, as required by Section 943.13(7), F.S., depending upon the type of controlled substance used, the frequency of use, and the age of the applicant at the time of use. Nothing in this rule chapter is intended, ~~however,~~ to restrict the requirements construction of Section 943.13(7), F.S., ~~only to such~~ controlled substance use only.

(3) ~~The Commission shall, Upon the written request and submission of all appropriate materials,~~ as specified in the Criminal Justice Standards and Training Commission Policies and Procedures Manual, revised January 1999 effective November 1996, hereby incorporated by reference, the Commission shall evaluate the qualification of an applicant to determine compliance with "good moral character," pursuant to this rule section.

(4) For the purposes of the Commission's implementation of any of the penalties specified in Section 943.1395(6) or (7), F.S., a certified officer's failure to maintain good moral character, ~~as required by~~ Section 943.13(7), F.S., is defined as:

(a) The perpetration by an the officer of an act that which would constitute any felony offense; whether criminally prosecuted or not.

(b) The perpetration by an the officer of an act that which would constitute any of the following misdemeanor or criminal offenses; whether criminally prosecuted or not:

1. Sections 316.193, 316.1935, 327.35, 414.39 ~~409.325, 741.31 741.30,~~ 784.011, 784.03, 784.047, 784.048, 784.05(1), (2), 790.01(1), 790.10, 790.15 790.27, 794.027, 796.07, 800.02, 800.03, 806.101, 806.13, 810.08, 812.014, 812.015,

- 812.14, 817.235, 817.49, 817.563(2), 817.565, 817.567, 827.04(2) and (3), 827.05, 828.12, 831.30, 831.31(1)(b), 832.05(2) and (4), 837.012, 837.05, 837.06, 839.20, 843.02, 843.03, 843.06, 843.085, 847.011(1) and (2), 856.021, 870.01(1), 893.13, 893.147, 914.22(2), 944.35(3); ~~944.35(7)(a),~~ 944.37, and 944.39, F.S.; ~~or~~

2. Any principal, accessory, attempt, solicitation, or conspiracy, pursuant to Chapter 777, F.S., which had the crime been committed or completed; would have been a felony offense; ~~or~~

3. The perpetration of an act in any jurisdiction other than the State of Florida, which if committed in the State of Florida would constitute any offense listed in this rule section.

(c) The perpetration by an the officer of ~~an~~ acts or conduct that constitute the following offenses which constitutes:

1. Excessive use of force, defined as a situation in which an officer uses a "level of force" inappropriate with the circumstances presented at the time of the incident. In the administrative review of "use of force" for officer disciplinary cases, the Commission applies the Commission's "Recommended Use of Force and Levels of Resistance Matrix, January 1999, hereby incorporated by reference, to evaluate "use of force" circumstances presented in a disciplinary case.

2. Misuse of official position, ~~as~~ defined by Section 112.313(6), F.S.

3. Having an unprofessional relationship with an inmate, detainee, probationer; or parolee, or community controllee. An unprofessional relationship is defined as:

a. Having written or oral communication with an inmate, detainee, probationer or parolee, or community controllee that is intended to facilitate conduct which is prohibited by this rule section Rule Chapter 11B-27, F.A.C.; or

b. Engaging in physical contact, ~~which is prohibited by law or rule,~~ not required in the performance of official duties, and is defined as kissing, fondling of the genital area, buttocks, or breasts, massaging or similar touching, holding hands, any other physical contact normally associated with the demonstration of affection, or sexual misconduct as applied to all certifications, which is defined in Section 944.35 (3), F.S.

4. Sexual harassment pursuant to and consistent with decisions interpreting 29 C.F.R. 1604.11, including unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature, when the harassment involves involving physical contact or misuse of official position and when:

a. Submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment, or

b. Submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual, or

c. Such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile, or offensive working environment.

5. Engaging in sex while on duty.

6. False statements during the employment application process.

7. Conduct ~~that subverts or attempts to subvert, the State Officer Certification Examination process pursuant to Rule 11B-30.009(3), F.A.C. which violates the standards of test administration, such as communication with any other examinee during the administration of the examination; copying answers from another examinee, or intentionally allowing one's answers to be copied by another examinee during the administration of the examination pursuant with Rule 11B-30.009(3)(b), F.A.C.~~

8. ~~Any other e~~Conduct ~~that which~~ subverts, or attempts to subvert, the ~~Criminal Justice Standards and Training Commission State Officer Certification Examination process, eriminal justice training school, or an~~ employing agency promotional examination process pursuant to Rule 11B-30.009(3)(2), F.A.C.

(d) Testing positive for controlled substances by conducting a urine or blood test ~~that which~~ results in a confirmed nanogram level pursuant to Rule 11B-27.00225, F.A.C., or ~~is otherwise~~ consistent with, and/or indicative of the ingestion of a controlled substance pursuant to ~~with~~ Chapter 893, F.S., and not having a specific nanogram level listed in Rule 11B-27.00225, F.A.C.; ~~it~~ shall be an affirmative defense to this provision to establish that any such ingestion was lawful. Any ~~such~~ test of this kind relied upon by the Commission for disciplinary action, ~~shall must~~ comply with the requirements for reliability and integrity of the testing process pursuant to Rule 11B-27.00225, F.A.C.

(5) ~~An The~~ employing agency shall forward to ~~Commission staff the Commission an investigation a~~ report pursuant with procedures established in Rule 11B-27.003(2)-(4), F.A.C., when the following acts or allegations have occurred:

(a) ~~An~~ allegation has been made that an officer has failed to maintain good moral character; defined in paragraph (4) of this rule section, and the allegation has been sustained by the employing agency; or

(b) If an act or conduct by the officer has resulted in the officer's arrest, ~~the~~ report shall be forwarded to Commission staff immediately upon the officer's separation ~~of the officer~~ from employment; or

(c) If the officer is not separated from employment, within 45 days from the date the an allegation, ~~as set forth herein, is has been~~ sustained pursuant to this rule section.

(6) ~~Acting as the staff of the Commission, the Division shall, U~~pon receipt of information pertaining to an officer's misconduct, including inclusive of the violations of (4)(b) or (4)(c) of this rule section, Commission staff shall review the

~~said information to determine and make a determination of~~ whether to initiate a Commission probable cause review, based upon, but not limited to, the following conditions:

(a) The severity of the violation.

(b) The existence of any pecuniary benefit realized by the officer as a result ~~by commission~~ of the misconduct.

(c) Evidence of any intent by the officer to harm, ~~to~~ deceive, or ~~to~~ defraud ~~on the officer's part.~~

(d) In cases involving false statements, the materiality of the such false statements.

(e) The disciplinary action taken by the employing agency.

(7) All forms and the Criminal Justice Standards and Training Commission Policies and Procedures Manual referenced in this rule chapter, may be obtained by contacting the Florida Department of Law Enforcement, Criminal Justice Professionalism Program Division of Criminal Justice Standards and Training, Post Office Box 1489, Tallahassee, Florida 32302-1489, Attention: Director's Office, Forms and/or Manual Liaison.

Specific Authority 943.03(4), 943.12(1) FS. Law Implemented 943.13(7), 943.1395(7) FS. History—New 1-7-85, Formerly 11B-27.011, Amended 7-13-87, 10-25-88, 12-13-92, 9-5-93, 1-19-94, 8-7-94, 11-5-95, 1-2-97.

11B-27.002 Certification, Employment or Appointment, and Terminating Employment or Appointment of Officers.

(1) Prior to submitting an application for certification or reactivation of certification, the employing agency shall collect, verify, and have on record, documents which establishing that an applicant has met the requirements of Sections 943.13(1) through (10), F.S., to include the following requirements:

(a) Evidence of the applicant's age and citizenship verified only by a means pursuant to with ~~Commission established policies and procedures, specified in~~ the Criminal Justice Standards and Training Commission Policies and Procedures Manual.

(b) Evidence that the applicant is a high school graduate; or its equivalent; pursuant to Rule 11B-27.0021(1), F.A.C.

(c) An Applicant Fingerprint Card, FBI form, FD-258, January 1999, hereby incorporated by reference, that as required in the Criminal Justice Standards and Training Commission Policies and Procedures manual, which has been processed by the Florida Department of Law Enforcement and the Federal Bureau of Investigation, pursuant with the Criminal Justice Standards and Training Policies and Procedures Manual, established policies and procedures. An Applicant Fingerprint Ceard shall must be processed in conjunction with an officer's employment or appointment, regardless of the existence of an officer's a processed Applicant Fingerprint Ceard from a previous employment or appointment ~~of that officer.~~

(d) Upon request by Commission staff, the employing agency administrator shall forward the required documentation to Commission staff verifying that appointed or employed officers have met the requirements of Section 943.13, F.S.

1. In the event that a processed Applicant Fingerprint Card is not available; at the time the Registration of Employment Affidavit of Compliance form CJSTC-60, revised January 21, 1999, hereby incorporated by reference, is completed, certification application is made, and the applicant meets the necessary qualifications established by statute or this rule section, the employing agency may employ or appoint the applicant as an officer, provided that a computerized Florida criminal history check has been made; and the results are on file with the employing agency. Pursuant with Section 943.13(5), F.S., upon receipt of the processed Applicant Fingerprint Card, fingerprint card, the employing agency shall notify the Commission by submitting a Fingerprint Notification form; CJSTC-62, revised October 27, 1998, effective November 1996, hereby incorporated by reference. The information on the CJSTC-62 form may be electronically transmitted via the Commission's Automated Training Management System (ATMS2).

2. Any employment or appointment of an officer without a processed Applicant Fingerprint Card, shall fingerprint card shall be limited to a period not to exceed a period of one (1) calendar year from the original date of employment or appointment, and shall terminate upon return of or upon the return of the processed Applicant Fingerprint Card fingerprints documenting the failure of the officer to meet the necessary qualifications, whichever occurs first. To document compliance of the officer to meet the necessary qualifications in cases where the processed Applicant Fingerprint Cards fingerprints cards have not been received within the allotted time, a subsequent employment or appointment by the same agency shall will not be approved until such time the Commission, via the Division, Commission staff receives notification that the processed Applicant Fingerprint Cards fingerprints cards are on file with the employing agency; to document compliance of the officer to meet the necessary qualifications.

3. Should an officer separate from employment prior to the employing agency receiving the processed Applicant Fingerprint Cards, fingerprints cards, and upon receipt that there is an indication the officer has failed to meet the necessary qualifications, the separating agency shall immediately notify the Commission in writing, via the Division, Commission staff and provide a copy of any documents that establish non-compliance of the officer to meet the necessary qualifications.

(e)(4) A Physician's Assessment and Patient Information form; CJSTC-75 and Medical History Questionnaire form CJSTC-75A, revised June 19, 1997 effective November 1996, hereby incorporated by reference, or an equivalent form;

signed by a physician licensed in the United States or its territories; ~~showing that the applicant has met the appropriate medical standards required by the Commission.~~ A Physician's Assessment and Patient Information form CJSTC-75; or equivalent, ~~shall must~~ be signed by a physician; licensed in the United States; in conjunction with an officer's employment or appointment, regardless of the existence of a signed Physician's Assessment and Patient Information form; CJSTC-75; or equivalent, from a previous employment or appointment of that officer.

(f)(e) If applicable, Evidence, by verification of appropriate military records, that the individual has not received a dishonorable discharge from any of the Armed Forces of the United States.

(g)(f) An Affidavit of Applicant form; CJSTC-68, revised January 21, 1999, effective November 1996, hereby incorporated by reference, executed by the applicant that verifies which attests that the applicant meets the employment or appointment qualifications pursuant to Sections 943.13(1) through (10) F.S.

(h)(g) Evidence that a thorough background investigation was conducted pursuant to Rule 11B-27.0022, F.A.C. A thorough background investigation conducted; pursuant to Rule 11B-27.0022, F.A.C., shall must be conducted in conjunction with an officer's employment or appointment, regardless of existing evidence that a thorough background investigation of the officer was conducted for a previous employment or appointment.

(i)(h) Evidence that the applicant has successfully completed the Basic Recruit Training Program in the discipline for which certification is being sought, established pursuant to with Sections 943.17(1) and (3), F.S., or is being employed or appointed pursuant to under the provisions of Section 943.131, F.S., and the applicant has successfully passed the State Officer Certification Examination for the discipline for which certification is being sought; pursuant to Rule 11B-35.002(2)(c), F.A.C. If the applicant is exempt from the Basic Recruit Training Program; pursuant to Section 943.131(2), F.S., and Rule 11B-35.010, F.A.C., the employing agency who initially employed the applicant as an officer shall maintain on file a copy of a completed Equivalency-of-Training and Out-of-State and Federal Officers form; CJSTC-76, revised September 2, 1998, effective November 1996, hereby incorporated by reference, and additional documentation maintained on file pursuant to Rule 11B-35.010(2)(b) and (c), F.A.C.

1. Pursuant to Section 943.131, F.S., an agency may temporarily employ or appoint a person who complies with the qualifications for employment pursuant to Section 943.13(1)-(8), F.S., but has not fulfilled the requirements of Section 943.13(9) and (10), F.S., by completing a Temporary Employment Authorization Statement form CJSTC-65, revised October 27, 1998, hereby incorporated by reference. On or

after January 1, 1995, any agency making application to temporarily employ an individual, who has had a previous Temporary Employment Authorization registered with the Commission in the same discipline, may do so only if the individual was previously certified as a full or part-time officer, or was previously hired under a Temporary Employment Authorization (TEA), but has separated from the employing agency, or discontinued training while still in good standing, and has had a break-in-service from the last employment, of a minimum of (4) four years. Such individual shall comply with the firearms requirements provisions established in the Criminal Justice Standards and Training Commission Policies and Procedures Mmanual, firearms requirements, pursuant to Section 943.17(1)(a), F.S., and shall enroll in a Basic Recruit Training Program within 180 days of employment, or in the first training program offered in the geographic area.

2. Individuals who are employed on a Temporary Employment Authorization shall remain on it until such time they successfully complete a Basic Recruit Training Program.

3. If a trainee is unable to complete the course included in a Basic Recruit Training Program for in which the trainee he/she is enrolled in, the training center director may assign a grade of "I" for incomplete on the final grade report for that course.

4. Upon successful completion of a Basic Recruit Training Program, the applicant has 180 days in which to pass the State Officer Certification Examination.

(2) On or before September 1, the employing agency administrator shall annually file documentation with the Commission to verify that all officers employed or appointed as of June 30th of that year have satisfied the requirements of Section 943.13, F.S. Documentation shall include the officers' name, social security number, and employment status with the employing agency, as either a full-time, part-time, or auxiliary officer.

(3)(2) An individual A person who successfully completes a Florida Basic Recruit Training Program; pursuant to Rule Chapter 11B-35, F.A.C., or former Rule 11B-29.002, F.A.C., and who is thereafter not employed on or before four (4) years of the completion of such training as an officer in the discipline for which training was completed, shall comply with the following: within four (4) years of the completion of such training,

(a) must As a condition of employment or appointment after July 1, 1993, successfully complete a Basic Recruit Training; Program; pursuant to Rule 11B-35.002008, F.A.C., and

(b) Shall demonstrate proficiency in each of the high-liability proficiency skills applicable to that discipline, and

(c) Shall successfully pass the State Officer Certification Examination.

(4)(3) Upon an officer's separation from employment or appointment, the agency shall immediately notify the Commission pursuant to ~~with~~ procedures established in Section 943.139, F.S. For the purpose of this rule, Notice shall be made by the employing or appointing agency to Commission staff the Division by submitting an Affidavit of Separation form; CJSTC-61 revised October 27, 1998 effective November 1996, hereby incorporated by reference. The information on the CJSTC-61 form may be electronically submitted via the Commission's Automated Training Management System (ATMS2).

(5) An Affidavit of Separation form CJSTC-61A, revised December 17, 1997, hereby incorporated by reference, shall be completed and submitted with form CJSTC-61, or may be electronically submitted via the Commission's ATMS2, as follows:

(a) If an officer voluntarily separates or retires from an agency while undergoing an investigation for violation of Chapter 943.13(4), F.S., or

(b) For violation of moral character standards defined by Rule 11B-27.0011(4), F.A.C., or is terminated from an agency for violation of Chapter 943.13(4), F.S., or

(c) For violation of moral character standards as defined by Rule 11B-27.0011(4), F.A.C.

Specific Authority 943.03(4), 943.12(1) FS. Law Implemented 943.12(3)(2), 943.13, 943.131, 943.139, 943.1395 FS. History--New 10-6-82, Amended 4-26-84, 1-7-85, Formerly 11B-27.02, Amended 9-3-87, 3-29-89, 5-14-92, 12-13-92, 9-5-93, 1-19-94, 1-2-97.

11B-27.0021 High School Graduation or Equivalent.

(1) A high school graduate shall be an individual who has graduated from a high school, and has been awarded a standard diploma, within the United States or its territories, and the school and is a public school, or a private school, which has been accredited by the Southern Association of Colleges and Schools, or other an accrediting agency, and which is recognized by the State Board of Education for accreditation purposes. Individuals, who have successfully completed a non-public high school or foreign high school curriculum, shall possess a diploma that substantially meets the requirements of Section 232.256, F.S.

(2) A Commission-certified criminal justice training school or a Regional Criminal Justice Selection Center, established pursuant to Section 943.256, F.S., shall evaluate non-public high school and foreign high school curricula, and shall complete an Equivalency of Foreign and Non-Public High School Curriculum form CJSTC-35, August 5, 1998, hereby incorporated by reference. Form CJSTC-35 shall be maintained in the officer's employing agency file. The Commission shall evaluate a foreign high school curriculum, which shall substantially meet the requirements for high school graduation pursuant with Section 232.246(1)(a), F.S.

(3) The successful completion of the General Education Development (G.E.D.) Tests, with an aggregate score of 225 on all five (5) sections of the test, and no score below 40 on any single section, shall be considered the equivalent of a high school graduation, and may be used ~~utilized~~ in lieu of the requirement established in paragraph ~~(1)~~(2) of this rule section.

(4) In absence of proof of successful high school graduation or General Education Development Tests, the following shall be acceptable as meeting the minimum educational requirements:

(a) ~~A~~an Associate's Degree or transcript verification of successful completion of one (1) year of college work from an accredited institution; defined in Section 943.22(1), F.S., pursuant with Rule Chapter 11B-14, F.A.C., or licensed by the Florida Board of Independent Colleges and Universities, or

(b) ~~A~~a certificate issued by the United States Armed Forces Institute (U.S.A.F.I.) prior to December 31, 1974, showing successful completion of high school equivalency; ~~shall be acceptable as meeting the minimum educational requirements.~~

Specific Authority 943.03(4), 943.12(1), ~~943.12(10)~~ FS. Law Implemented 943.13(3) FS. History--New 10-6-82, Amended 1-7-85, Formerly 11B-27.021, Amended _____.

11B-27.0022 Background Investigations.

(1) The employing agency ~~shall~~ must conduct a thorough background investigation of each applicant upon ~~for~~ certification, employment, or appointment pursuant to in ~~conjunction with~~ procedures for conducting background investigations, which are established in the Criminal Justice Standards and Training Commission Policies and Procedures Manual, adopted by the Criminal Justice Standards and Training Commission. Specific procedures for conducting background investigations may be found in the Criminal Justice Standards and Training Commission Policies and Procedures manual. The agency ~~shall~~ must have on record a summary of the findings; signed and dated by the investigator and the chief administrator; or ~~his/her~~ designee; that which verifies the following information:

(a) Information contained in the Affidavit of Applicant form; CJSTC-68 is accurate.

(b) Commission staff ~~The Division~~ has been contacted to verify all prior criminal justice employments of the applicant; and as well as the facts and reasons for any prior separations of employment.

(c) Processed Applicant Fingerprint Cards ~~fingerprints~~ are on file reflecting state and national criminal history record checks.

(d) A urine sample furnished by the applicant was analyzed for the presence of controlled substances or evidence pursuant to Rule 11B-27.00225, F.A.C.

(e) The applicant is of good moral character.

(2) The employing agency shall use the following means to complete its investigation ~~must~~:

(a) ~~Use~~ neighborhood checks;.

(b) Use previous employment data obtained from prior employers, law enforcement records, and military history checks ~~(if applicable)~~;

(c) Question the applicant ~~questioning~~ of any history of prior unlawful conduct;.

(d) Question the applicant about any ~~and current or recent~~ unlawful drug use; pursuant to Rule 11B-27.0011(2), F.A.C.; ~~and in addition, may~~

(e) ~~Use~~ other means; ~~deemed necessary and proper by the agency;~~ to complete its investigation, including; ~~but not limited to~~ a job-related psychological examination and a polygraph examination.

(f) In cases where an applicant's urine sample is found to contain a controlled substance; or evidence thereof, upon the completion of the analysis procedures; pursuant to Rule 11B-27.00225, F.A.C., the employing agency shall, if requested by the applicant, permit the applicant to provide to the employing agency evidence that the applicant lawfully used or ingested the said controlled substance.

(3) Upon the effective date of this rule section, the employing agency completing the background investigation shall submit to Commission staff ~~the Division~~ a Registration of Employment Affidavit of Compliance form; CJSTC-60, ~~effective November 1996, hereby incorporated by reference;~~ The information on the CJSTC-60 form may be electronically submitted via the Commission's Automated Training Management System (ATMS2), and the agency shall also submit; ~~or electronically transmit,~~ a completed original of the Employment Background Investigative Report form; CJSTC-77, ~~revised October 27, 1998, effective November 1996, hereby incorporated by reference;~~ The information on the CJSTC-77 form may be electronically submitted via the Commission's ATMS2. The original form; CJSTC-77; that ~~which~~ has been signed and dated by the investigator and the chief administrator or ~~his/her~~ designee, shall be retained in the applicant's file.

Specific Authority 943.03(4), 943.12(1), 943.133(3) FS. Law Implemented 943.13(7), 943.133, 943.139(3) FS. History--New 10-6-82, Amended 1-7-85, Formerly 11B-27.022, Amended 7-13-87, 10-17-90, 5-13-92, 5-14-92, 12-13-92, 9-5-93, 8-7-94, 1-2-97, _____.

11B-27.00225 Controlled Substance Testing Procedures.

(1) The employing agency is required to conduct a background investigation upon each applicant upon ~~for~~ certification, employment, or appointment and which shall, on ~~or after October 1, 1987,~~ include the analysis of a urine sample furnished by the applicant for the presence of ~~the~~ controlled substances or ~~their~~ metabolites, which shall be consistent with the procedures for drug testing pursuant to Section 112.0455, F.S., Drug-Free Workplace Act, effective July 1, 1998, and Chapter 59A-24, F.A.C., Drug-Free Workplace Standards, effective March 11, 1998, which have been adopted by the Agency for Health Care Administration, as specified in this

~~rule. The costs of urine sample collection and analysis, or any aggregate thereof, may be borne by the employing agency or the applicant; at the discretion of the employing agency.~~

~~(2) In order to ensure the reliability and integrity of the testing process for applicants and officers, the employing agency shall verify the following requirements for the collection of urine samples: with regard to urine sample collections:~~

~~(a) The procedures for collection sites and specimen collection met the requirements pursuant to Section 59A-24.005, F.A.C. Each person furnishing a urine sample was identified by a driver's license or other means of photographic identification as the applicant to be tested.~~

~~(b) The samples were obtained from applicants in such a manner to reasonably prevent substitution, alteration, or other tampering with the sample. The said collection technique shall be utilized in a medical setting.~~

~~(c) The quantity of urine collected in each sample was approximately fifty (50) cubic centimeters.~~

~~(d) Samples were collected in chemically cleaned and previously unused containers, which were covered immediately upon collection, and refrigerated as soon as was practicable.~~

~~(e) Each collection container containing a sample was sealed by an adhesive band, which extended over and around the container cover in the manner of "evidence tape," and the band was labeled with the name of the person giving the sample, the date the sample was given, and the name of the person who received the sample.~~

~~(b)(f) Each applicant gave consent in writing prior to at the time of the giving of the sample, to the collection of the sample, the analysis for evidence of controlled substances, and the disclosure of the analysis results to the employing agency and to the Commission.~~

~~(g) Samples were maintained and transferred in such a manner to preserve the chain of custody.~~

~~(3) In order to ensure the reliability and integrity of the testing process for applicants and officers, the employing agency shall verify the following conditions with regard to urine sample analysis:~~

~~(a) Each urine sample was analyzed consistent with the requirements pursuant to Section 59A-24.006, F.A.C. was screened by either an enzyme immunoassay or radioimmunoassay testing method, or an equally scientifically rigorous screening method.~~

~~(b) The laboratory performing the analysis did analyze the urine sample tests was capable of testing for the presence of the following seven eight substances: in subparagraph (e) of this rule.~~

1. Amphetamines (amphetamine, methamphetamine)
2. Cannabis or Cannabinoids
3. Cocaine or Cocaine Metabolite

4. Phencyclidine

5. Opiates (codeine, morphine)

6. Barbiturates

7. Benzodiazepines

~~(c) The levels on the initial screened specimens, that which were equal to or exceeded the levels pursuant to Section 59A-24.006(4)(e), F.A.C., following, were considered positive and reported for confirmation testing:~~

1. Amphetamines (amphetamine, methamphetamine)	1,000 ng/ml
2. Cannabis or Cannabinoids	100 ng/ml
3. Cocaine or Cocaine Metabolite	300 ng/ml
4. Phencyclidine	25 ng/ml
5. Methaqualone	300 ng/ml
6. Opiates (codeine, morphine)	300 ng/ml
7. Barbiturates	300 ng/ml
8. Benzodiazepines	300 ng/ml

~~(d) All specimens identified as positive on the initial test were confirmed using gas chromatography and mass spectrometry (GC/MS), or mass spectrometry and mass spectrometry (MS/MS), and all confirmations were performed by quantitative analysis other equally scientifically rigorous testing methods. All confirmations were done by quantitative analysis. Levels on confirmation specimens that which are equal to or exceed the levels pursuant to Rule 59A-24.006(4)(f), F.A.C., following are considered positive:~~

1. Amphetamine, (amphetamine, methamphetamine)	500 ng/ml
2. Cannabis or Cannabinoids	15 ng/ml
3. Cocaine or Cocaine Metabolite	150 ng/ml
4. Phencyclidine	25 ng/ml
5. Methaqualone	150 ng/ml
6. Opiates (codeine, morphine)	300 ng/ml
7. Barbiturates	150 ng/ml
8. Benzodiazepines	150 g/ml

~~(e) Each urine sample analysis was conducted by qualified laboratory personnel utilizing valid scientific methods and procedures.~~

~~(4) Prior to the transmission of test results to the employer and Commission, both positive and negative test results shall be reviewed and verified by a Medical Review Officer (MRO). Persons facilitating as MRO's shall meet all requirements and qualifications pursuant to Rule 59A-24.008, F.A.C.~~

~~(a) The Medical Review Officer shall review and evaluate the drug test result(s), which are reported out by the laboratory, pursuant to procedures pursuant to Rule 59A-24.008, F.A.C.~~

~~(b) The Medical Review Officer shall prepare and sign a verification letter to the employer and Commission revealing the final verified test result. A copy of the laboratory report form or chain of custody form is not suitable for verifying test results.~~

Specific Authority 943.03(4), 943.12(1) F.S. Law Implemented 943.13(7), 943.133, 943.1395 F.S. History—New 7-13-87, Amended 1-2-97.

11B-27.0023 Issuance and Maintenance of Certification.

(1) Issuance. For those applicants who have not been previously certified and who have met all certification requirements; pursuant to Section 943.13(1) through (10), F.S., the employing agency shall submit to Commission staff an Application for Certification form CJSTC-59, January 21, 1999, hereby incorporated by reference, and shall certify that the applicant is eligible for certification by the Commission. The information on the CJSTC-59 form may be electronically transmitted via the Commission's Automated Training Management System (ATMS2). Effective April 1, 1999, upon receipt of the CJSTC-59, Commission staff shall review the application for compliance with the requirements of Section 120.60, F.S. Upon a determination that the applicant is eligible for certification, the Commission shall issue a Certificate of Compliance.

(a) Effective April 1, 1999, upon a determination that an Application for Certification form CJSTC-59 contains missing or deficient documentation, an Officer Certification Deficiency Notification form CJSTC-259, January 21, 1999, hereby incorporated by reference, shall be completed by a Commission Field Specialist to notify the applicant and employing agency of the deficient or missing documentation. The employing agency shall submit the missing or deficient documentation, to Commission staff, within 90 days of the date the CJSTC-259 was issued. Failure to submit missing or deficient documentation within the required 90-days, shall result in a recommendation of denial of the applicant's request for certification Rule 11B-27.002, F.A.C., or the conditions of equivalency, pursuant to Rule Chapter 11B-35.009 and .010, F.A.C., upon receiving notification from a Commission-certified criminal justice training school certified by the Commission, pursuant to Rule 11B-21.002, and .005, F.A.C., that the applicant has met the training requirements for the position for which the officer has been registered, and has successfully passed the Officer Certification Examination, established pursuant to Section 943.17(1) or 943.17(3), F.S., or the conditions of equivalency have been met pursuant to Rule 11B-35.009 and .010, F.A.C., the Commission shall issue a Certificate of Compliance effective November 1996, hereby incorporated by reference in the Criminal Justice Standards and Training Commission Policies and Procedures manual.

(b) The certificate issued; pursuant to paragraph (1) of this rule section, shall be issued in the name appearing on the Application for Certification form CJSTC-59 Registration Affidavit of Compliance form CJSTC-60, which shall coincide with the name appearing on the birth certificate, certificate of naturalization, or other documents providing evidence of a legal name change. A Name Change form CJSTC-79, revised January 26, 1996, hereby incorporated by reference, shall be completed and submitted to Commission staff, pursuant to the

Criminal Justice Standards and Training Commission Policies and Procedures Manual. A Certificate of Naturalization Application form G-639, March 21, 1994, hereby incorporated by reference, if required to prove U.S. citizenship, may be obtained from the Immigration and Naturalization Service to apply for a certificate of naturalization, pursuant to the Criminal Justice Standards and Training Commission Policies and Procedures Manual.

(2) Maintenance. On or after July 1, 1985, each certified officer shall be required to receive periodic Commission-approved continuing training or education, at the rate of 40-hours every four (4) years as specified in the following paragraphs:

(a) For those officers initially certified; on or before July 1, 1985, training ~~shall~~ ~~must~~ be completed by June 30, 1989, and every four (4) years thereafter; and

(b) For those officers certified after July 1, 1985, the mandatory retraining deadline shall be June 30th following the officer's four (4) year anniversary date.

Example:

Original Certification: November 21, 1987

Four Year Anniversary Date: November 21, 1991

Mandatory Retraining Deadline: June 30, 1992

(c) Training used to satisfy the mandatory retraining requirement ~~shall~~ ~~must~~ be submitted, ~~or electronically transmitted;~~ by the employing agency to Commission staff the Division by completing on a Mandatory Retraining Report form; CJSTC-74, revised October 27, 1998 effective November 1996, hereby incorporated by reference. The information on the form CJSTC-74 may be electronically transmitted via the Commission's Automated Training Management System (ATMS2).

(d) For those individuals whose mandatory retraining dates expire while serving as elected officers, and who have not attended mandatory retraining on or before such date, training shall be completed within four (4) years of the date the individuals cease to serve as elected officers, and within every four (4) years thereafter.

(e) Elected or appointed officials, who hold an active law enforcement, correctional, or correctional probation certificate issued by the Criminal Justice Standards and Training Commission, and who have resigned their position as an officer to serve in an elected or appointed capacity, shall be allowed to maintain their certification, through "association" with an agency, to fulfill the continuing education requirement pursuant to Chapter 943.135(4)(a)-(e), F.S.

(f)(e) In the event that an officer has failed to meet the requirements of Rule 11B-27.0023(2), F.A.C., the certificate shall become inactive until ~~such time as~~ the employing agency provides documentation documents to Commission staff establishing the Division which establish that the continuing training or education requirements have been satisfied. Upon receipt and acceptance of the documentation by Commission

~~staff the Division~~, the officer's certificate shall be placed in an active status, and the agency shall be notified of the date of such action.

~~(g)(f) Any combination of the following training may be used to fulfill approved continuing training or education requirements: Approved continuing training or education requirements may be fulfilled by the following:~~

1. Advanced Training.
2. Career Development Training.
3. In-service Training.
4. Approved Specialized Training.

5. Courses completed at accredited colleges, universities, junior colleges, community colleges, and vocation-technical centers. Forty (40) hours of mandatory retraining credit shall ~~will~~ be granted for the completion of three (3) credit hours (3 semester or 4 quarter hours) of college work.

~~(h)(g)~~ With respect to officers completing continuing training or education on or after July 1, 1993, the following conditions shall be included as a part of the continuing training or education:

1. Instruction in the Domestic Violence Uniform Statewide Policies and Procedures, pursuant to Section 943.1701, F.S., and prescribed by the Criminal Justice Standards and Training Commission, ~~has been adopted into the Criminal Justice Standards and Training's Policies and Procedures manual, effective November 1996, hereby incorporated by reference.~~

2. ~~Effective July 1, 1997, eight (8) Sixteen (16) hours of instruction in human diversity training; eight (8) hours of which must be devoted to the subject of interpersonal skills relating to racial and ethnic minorities, with an emphasis on the awareness of cultural differences, pursuant to Section 943.1716, F.S., and prescribed by the Criminal Justice Standards and Training Commission, which has been adopted into the Criminal Justice Standards and Training Policies and Procedures manual effective November 1996, hereby incorporated by reference.~~

3. ~~The 16-hour course shall be taught as a continuous block of instruction within seven (7) calendar days. Beginning July 1, 1993, the Commission approved objectives shall be the only objectives that meet this requirement. All Commission-certified criminal justice instructors shall must meet the requirements for Human Diversity Instructor Training pursuant to Rule 11B-20.001(4)(g), F.A.C. Certified Human Diversity Training Instructors may elect to substitute the completion or instruction of the Commission-approved 20-hour Human Diversity Instructor Training Course, or instruction of the 8-hour Human Diversity Training course, to satisfy the human diversity requirements for mandatory retraining pursuant to paragraph (g) of this rule section as outlined in this rule.~~

4. Effective July 1, 1998, pursuant to 943.17295, F.S., the Commission shall incorporate instruction on Juvenile Sexual Offender Investigations training into the Basic Recruit Training Curriculum and mandatory retraining requirements. A law enforcement officer shall be required to complete training in the subjects of sexual abuse and assault investigation, with emphasis on cases involving child victims or juvenile offenders as part of the 40-hour mandatory retraining requirement.

~~(i)(h)~~ Commission-certified criminal justice ~~The~~ training schools shall make a remediation program available for officers in whom learning disabilities are identified. Such remediation program shall not fulfill the mandatory retraining requirements.

~~(j)(i)~~ Any officer who has with a lapse in service of under four (4) years, shall must complete the mandatory retraining requirement prior to resuming active service with an agency. An officer who wishes to claim training, as mandatory retraining, which was taken during a period when their his/her certification was inactive, shall must provide proof of the training to the prospective employing agency. The employing agency shall determine if the continuing training or education requirements have been satisfied, and shall complete and submit a Mandatory Retraining form CJSTC-74, and documents submit, or electronically transmit the documents to Commission staff the Division on the Mandatory Retraining form, CJSTC-74.

~~(k)(j)~~ Any continuing training or education completed pursuant to paragraph (2) of this rule section, shall not be eligible for salary incentive payments pursuant to Section 943.135(2), F.S.

Specific Authority 943.03(4), 943.12(1) FS. Law Implemented 943.12, 943.13(11), 943.135, 943.1395, 943.1701, 943.1716, 943.253 FS. History—New 10-6-82, Amended 12-28-83, 1-7-85, 7-1-85, Formerly 11B-27.023, Amended 7-13-87, 5-23-88, 8-30-89, 5-13-92, 12-13-92, 1-19-94, 8-7-94, 1-2-97.

11B-27.0026 Reactivation of Certificate.

(1) Inactive Certificate Status. The certificate of any certified officer who has separated from employment or appointment as an officer, and who is not re-employed or re-appointed as an officer by an employing agency in the same discipline within four (4) years after the date of separation, shall become inactive.

(2) Prerequisites for certificate reactivation and reemployment as an officer. To become eligible for reactivation of certification and reemployment in the discipline for which the officer has experienced a break-in-service, described in paragraph (1) of this rule section, the officer shall must, on or after July 1, 1993, meet the following conditions:

(a) Successfully complete the Officer Certification Examination Qualification Review Course pursuant to Rule 11B-35.008, F.A.C., to include demonstration of proficiency in the high-liability courses pursuant to Rule 11B-35.0024(1), F.A.C.

(b) Successfully pass the State Officer Certification Examination pursuant with procedures in Rule Chapter 11B-30, F.A.C., Officer Certification Examinations.

(c) Meet the minimum qualifications described in Rules 11B-27.002, 11B-27.0021, 11B-27.0022, and 11B-27.00225, F.A.C., as evidenced by an employing agency's compliance with Section 943.133(2), F.S.

(3) Individuals ~~Persons~~ who requested certificate reactivation prior to July 1, 1993, shall ~~must~~ complete the required training and have qualified in the Commission-required high-liability proficiency skills, on or before December 31, 1994, to be eligible for exemption from paragraphs (2)(a) and (c), of this rule section.

Specific Authority 943.03(4), 943.12(1) FS. Law Implemented 943.1395(3) FS. History--New 1-19-94, Amended 1-2-97, _____.

11B-27.003 Duty to Report, Investigations, Procedures.

(1) Pursuant to Section 943.1395(5), F.S., an employing agency shall conduct an investigation when having cause to suspect that an officer it employs does not comply ~~is not in compliance~~ with Sections 943.13(4), or ~~(7) 943.13(7)~~, F.S., or Rule 11B-27.0011(4), F.A.C. An investigation shall be conducted and concluded, and shall contain an official disposition, even though the officer under investigation separates from employment by voluntary resignation, retirement, and or termination. The employing agency shall report all such investigative findings pursuant to paragraphs (2) and (3) of this rule section.

(2) Upon concluding the investigation, ~~and~~ if the allegations are sustained by the employing agency, the employing agency shall complete an Internal Investigation Report form- CJSTC-78, revised February 29, 1996 effective November 1996, incorporated by reference, regardless irrespective of whether any civil service appeal, arbitration, employment hearing, administrative, civil, or criminal action is pending or contemplated. If the employing agency concludes that the allegations are not sustained, unfounded, or the officer has been exonerated, or the allegations that which are sustained are only violations of the employing agencies' policies, and which are not violations of Sections 943.13(4) or ~~(7) 943.13(7)~~, or Rule 11B-27.0011(4), F.A.C., the employing agency shall ~~should~~ complete the Internal Investigation Report form CJSTC-78, and ~~but~~ maintain the completed form on file at the agency. If the allegations are sustained, and are a violation of Sections 943.13(4) or ~~(7) 943.13(7)~~, F.S., or Rule 11B-27.0011(4), F.A.C., the employing agency shall forward to Commission staff ~~the Division~~ the complete investigative package, which shall include, ~~but is not limited to~~ the following:-

- (a) ~~A~~ completed Internal Investigation Report form CJSTC-78,;
- (b) ~~T~~he allegations,;
- (c) ~~A~~ summary of the facts,;

- (d) ~~N~~ames of witnesses,;
- (e) ~~W~~itness statements and depositions,;
- (f) ~~C~~ertified court documents, ~~and~~
- (g) ~~A~~ny other supportive documentation or information.

(3) If the officer is separated from employment, the employing agency shall ~~must~~ ~~likewise~~ provide such an investigative package, ~~provided, however, that the agency shall submit~~ ~~must forward~~ a completed Affidavit of Separation form; CJSTC-61, and form CJSTC-61A, in the case of a separation of employment pursuant with Rule 11B-27.002(4)-(5), F.A.C. ~~in the case of a separation from employment.~~

~~(4)(3)~~ The investigative package and any subsequent report or investigation based on it, may provide evidence of probable cause to initiate proceedings for possible disciplinary action against the officer's certification. The employing agency shall make its report to Commission staff ~~the Division~~ no later than 45 days after the allegations are sustained.

Specific Authority 943.03(4), 943.12(1) FS. Law Implemented 120.60, 943.1395(5) FS. History--New 10-6-82, Amended 1-7-85, Formerly 11B-27.03, Amended 12-13-92, 9-5-93, _____.

11B-27.004 Probable Cause Determination.

At the conclusion of the preliminary investigation, and when the reports and documents are received as directed by Sections 943.139 and 943.1395, F.S., a determination of probable cause shall be made before the Commission initiates proceedings to take disciplinary action against the certification of an officer.

(1) For the purpose of ~~P~~robable ~~C~~ause ~~D~~eterminations, the chairperson ~~Chairman~~ of the Commission shall ~~may~~ appoint Probable Cause Panels of three (3) Commission members for terms specified in their appointment, not to exceed the term of the Commission chairperson ~~Chairman~~. The Commission chairperson ~~Chairman~~ shall appoint a chairperson ~~chairman~~ for each panel, and ~~the~~ The panels shall meet as necessary, or when called by the chairperson ~~chairman~~ of the Commission or the chairperson ~~chairman~~ of the panel.

(2) ~~A~~ ~~The~~ ~~P~~robable ~~C~~ause ~~D~~etermination is the conclusion of the preliminary investigation, and is not a hearing pursuant to Section 120.569 ~~120.57~~, F.S. Respondents may submit pertinent written information and documents to the Probable Cause Panel. The panel may allow the respondent to make a brief oral statement that which relates directly to the allegations being considered for probable cause. As a non-adversary executive function, witnesses shall ~~will~~ not be called to testify at a Probable Cause Determination Hearing.

(3) Each Probable Cause Panel Determination Hearing shall be noticed in the Florida Administrative Weekly pursuant with procedures established in Section 120.525, F.S. ~~120.53(1)(d)~~, F.S. The respondent shall ~~will~~ be mailed a prior notice of the meeting and a notification of whether or not probable cause was determined by the panel.

(4) After considering all evidence, a majority vote of the Probable Cause Panel shall determine whether or not probable cause exists to file an administrative complaint pursuant to

Section 120.60(5), F.S., charging a violation of Chapter 943, F.S., or Rule Chapter 11B-27, F.A.C. After considering all written evidence, the panel shall determine, by majority vote, whether or not probable cause exists to believe that a violation of Chapter 943, F.S., or the rule promulgated thereto has occurred, which warrants the filing of an Administrative Complaint pursuant to Section 120.60(6), F.S.

(5) In lieu of a finding of probable cause, the panel may issue a Letter of Guidance to the officer. A Letter of Guidance should only be issued when the panel determines that it is not in the best interest of the State to initiate proceedings against an officer's certification. A copy of the Letter of Guidance shall will be retained in the officer's file within the Criminal Justice Professionalism Program, the Division's Bureau of Standards.

(6) In cases, where the Probable Cause Panel finds that there are significant mitigating circumstances or that the violation is not egregious, and where the evidence presented would otherwise support a finding of probable cause, the panel shall offer the respondent the opportunity to enter into an Intervention Program; in lieu of an actual finding of probable cause, where the panel finds that there are significant mitigating circumstances, or that the violation is not egregious. The terms and conditions of the Intervention Program are as follows:

(a) Successful completion of any Advanced or Career Development training; or such retraining deemed appropriate by the panel.

(b) Participation in psychological, occupational, or substance abuse counseling.

(c) Furnishing blood, breath, or urine samples, and consent to the release of analysis results of such random or scheduled tests.

(d) Payment of restitution for damages or loss created by the officer's misconduct.

(e) Any other such rehabilitative terms and conditions.

(f) As a standard condition of the Intervention Program, the respondent shall will refrain from any violation of Sections 943.13(4) and (7), F.S., and Rule 11B-27.0011(2) and (4), F.A.C. For the Intervention Program to be a viable alternative in consideration of probable cause, the respondent shall must agree to all terms and conditions recommended by the panel. The respondent shall will be responsible for successfully completing the terms and conditions of the Intervention Program within a specified period time frame. Once the respondent has reported the successful completion of the terms and conditions to the Commission, the matter shall will be presented to a Probable Cause Panel. The panel shall will then issue a Letter of Guidance in lieu of a finding of probable cause, pursuant with paragraph (4) of this rule section. Failure of the respondent to either agree to, or successfully complete the terms and conditions of the Intervention Program within

the specified time frame, shall will result in the matter being returned to the Probable Cause Panel for a finding of probable cause; and the issuance of an Administrative Complaint.

(7) In cases where Commission staff the Division determines to initiate a Commission Probable Cause Panel review, and the respondent has been retained or reinstated by the employing agency; subject to the below listed conditions, Commission staff the Division shall present the matters before a Probable Cause Panel on a consent agenda. The Probable Cause Panel shall issue a Letter of Acknowledgment of agency action in these cases. The following conditions shall must be satisfied as a precondition to such processing by Commission staff the Division and the Probable Cause Panel:

(a) The employing agency shall must have taken significant agency action against the respondent pursuant to, as defined in Rule 11B-27.005(1)-(2), F.A.C.

(b) Commission Division staff shall must include on the consent agenda the following information; The name, social security number, and employing agency of the respondent, the nature of the misconduct, and a statement that the employing agency took significant agency action against the respondent; pursuant to Rule 11B-27.005(1)-(2), F.A.C.

(c) The alleged offense shall must not be a violation of Section 943.13(4), F.S., or Rule 11B-27.0011(4)(a) or (d), F.A.C.;

(d) The respondent shall must not have exhibited a "pattern of misconduct. "A" pattern of misconduct" is described as more than one offense or incident of misconduct, interrelated by similar characteristics, and which are not isolated incidents and were previously acted upon by the Commission.

(e) The respondent shall must not be a "repeat offender." A "repeat offender" is defined as a respondent who is present before the Probable Cause Panel for the third sustained offense, for which suspension of certification may be imposed within a five (5) year period.

(f) The alleged misconduct shall must not have presented a high risk of harm to the officer, other officers, or the public at large.

(8) In cases where Commission staff the Division determines to initiate a Commission Probable Cause Panel rReview, for the following reasons; and The respondent has been terminated by the employing agency; the penalty guidelines of Rule 11B-27.005(5), F.A.C., specify probation or suspension as the maximum penalty for the offense; absent the presence of aggravating circumstances does not exist that may prompt the Commission to depart from the guidelines and consider revocation of certification; and subject to the below listed conditions, Commission staff the Division shall present the matters to a Probable Cause Panel on a consent agenda. The Probable Cause Panel shall issue a Letter of Acknowledgment of agency action in these cases, and the

following conditions ~~shall~~ must be satisfied as a precondition to such processing by Commission staff ~~the Division~~ and the Probable Cause Panel:

(a) Commission staff ~~Division staff~~ must include on the consent agenda the following information: ~~The~~ name, social security number, ~~and~~ employing agency of the respondent, the nature of the misconduct, and a statement that the employing agency took significant agency action against the respondent; pursuant to Rule 11B-27.005(1)-(2), F.A.C.

(b) The alleged offense ~~shall~~ must not be a violation of Section 943.13(4), F.S., or Rule 11B-27.0011(4)(a) or (d), F.A.C.

(c) The respondent ~~shall~~ must not have exhibited a "pattern of misconduct." A "pattern of misconduct" is described as more than one offense or incident of misconduct, interrelated by similar characteristics, ~~and~~ which are not isolated incidents ~~and were~~ previously acted upon by the Commission.

(d) The respondent ~~shall~~ must not be a "repeat offender." A "repeat offender" is defined as a respondent who is present before the Probable Cause Panel for the third sustained offense, for which suspension of certification may be imposed within a five (5) year period.

(e) The alleged misconduct ~~shall~~ must not have presented a high risk of harm to the officer, other officers, or the public at large.

(9) In cases where the respondent has been terminated or disciplined; and is seeking review of that termination or discipline through the administrative or judicial process, the respondent and ~~the~~ employing agency shall notify Commission staff ~~the Division~~ of such review, prior to the convening of the Probable Cause Panel. The respondent and employing agency shall also notify Commission staff ~~the Division~~ of the final resolution of the administrative or judicial review. Such notification shall be done within fifteen (15) days of the final resolution. When the administrative or judicial review is pending at the time of the Probable Cause Determination Hearing, any finding of the Probable Cause Panel shall be conditional, except in cases where the respondent is statutorily ineligible to maintain certification, regardless of the outcome of the appeal. Pending final resolution, Commission staff shall hold cases, involving conditional findings, in abeyance without further action. Cases involving conditional findings shall be held in abeyance, without further action by the Division, pending final resolution.

(10) If administrative or judicial review results in a final approval of the respondent's termination or discipline, the case shall no longer be held in abeyance and shall be presented to the Commission for Commission-action ~~progress to action by the Division and the Commission~~. If administrative or judicial review results in a final imposition of a penalty of less than termination of employment, the conditional finding of probable

cause shall be re-addressed by a subsequent Probable Cause Panel; for determination of handling under paragraph (7); of this rule section.

(11) Commission staff's ~~The Division~~ characterization of misconduct shall control processing under the rules of the Commission regardless of; ~~any~~ agency characterization notwithstanding.

(12) Commission staff ~~The Division~~ shall submit report annually to the Commission, with a listing of those agencies that fail to impose ~~which did not impose~~ significant agency disciplinary action ~~in their cases forwarded to the Division~~, pursuant to Rule 11B-27.005(1), (2), F.A.C. ~~11B-27.0011(5), F.A.C.~~

(13) When the Probable Cause Panel has insufficient information to determine the existence of probable cause, but in good faith believes that Commission ~~Division~~ staff can obtain the information necessary to reach a decision, the panel shall enter a finding of "Insufficient information." The case ~~shall will then~~ be continued until reasonable staff efforts by Commission staff ~~have been initiated and concluded~~ to obtain the additional information requested by the panel ~~have concluded~~, at which time the case ~~shall will~~ be scheduled before a Probable Cause Panel for further review.

Specific Authority 943.03(4), 943.12(1), 943.12(10), 943.1395, 120.53 FS. Law Implemented 943.1395 FS. History—New 12-13-92. Amended 1-19-94, 11-5-95, 1-2-97, _____.

11B-27.005 Revocation or Disciplinary Actions; Disciplinary Guidelines; Range of Penalties; Aggravating and Mitigating Circumstances.

(1) For the purpose ~~purposes~~ of implementing the ~~implementation~~ of the provisions of Rule 11B-27.004(7), F.A.C. "significant agency action" is defined as follows:

(a) For an offense that ~~which~~ would be sanctioned by suspension of certification under these guidelines herein; Ssuspension from duty without pay for at least one (1) day, and any change in assignment or duties; that ~~which~~ results in reduction in compensation, or termination from employment.

(b) For an offense that ~~which~~ would be sanctioned by probation of certification under these guidelines herein; Any documented or written formal action, any change in assignment or duties that ~~which~~ results in reduction in compensation, or termination from employment.

(2) Additionally, for an offense that requires ~~which calls~~ for retraining, in addition to suspension or probation, "significant agency action" ~~shall~~ must include agency certification of in-service retraining by a qualified instructor. For an offense that requires ~~which calls~~ for counseling, in addition to suspension or probation, there ~~shall~~ must be agency certification of counseling by a qualified counselor.

(3) Pursuant to Section 943.1395(8), F.S., should there be a determination of probable cause that a certificate holder, hereinafter referred to as a "certified officer," has failed to maintain compliance with Section 943.13(4) or (7), F.S., or has

failed to comply with a lawful order of the Commission previously entered in a disciplinary hearing, the Commission's revocation or disciplinary proceedings shall be conducted pursuant to Rule Chapter 120, F.S., Administrative Procedure Act, and the Uniform Model Rules of Procedure, Rule Chapter 28, F.A.C.

(4) The Commission sets forth in paragraphs (5)(a)-(d), of this rule section, a range of disciplinary guidelines from which disciplinary penalties shall ~~will~~ be imposed upon certified officers who have been found by the Commission to have violated Section 943.13(7), F.S. The purpose of the disciplinary guidelines is to give notice to certified officers of the range of penalties, or prescribed penalties, that shall ~~which will~~ be imposed for particular violations of Section 943.13(7), F.S., absent aggravating or mitigating circumstances, as provided in paragraph (6) of this rule section. The disciplinary guidelines are based upon a "single count violation" of each provision listed. All penalties at the upper range of the sanctions in the guidelines, (i.e., suspension or revocation), include lesser penalties (i.e., reprimand, remedial training, or probation), that which may be included in the final penalty at the Commission's discretion.

(5) When the Commission finds that a certified officer has committed an act that which violates Section 943.13(7), F.S., it shall issue a final order imposing penalties within the ranges recommended in the following disciplinary guidelines:

(a) For the perpetration by the officer of an act that which would constitute any felony offense, pursuant to Rule 11B-27.0011(4)(a), F.A.C., but where there was not a violation of Section 943.13(4), F.S., the action of the Commission shall be to impose a penalty ranging from; suspension of certification to revocation. Specific violations and penalties that shall ~~will~~ be imposed, absent mitigating circumstances, include the following:

<u>Violation:</u>	<u>Recommended Penalty Range</u>
1. Aggravated assault (784.21, F.S.)	Revocation
2. Aggravated battery (784.045, F.S.)	Revocation
3. Grand theft (812.014, F.S.)	Revocation
4. Possession, sale of controlled substance (893.13, F.S.)	Revocation
5. Tampering with evidence (918.13, F.S.)	Revocation
6. Introduction of contraband into a jail or prison (944.47, F.S., and 951.22, F.S.)	Revocation
7. Keeping a gambling house (849.01, F.S.)	Revocation

8. False Statements (837.02, 837.021, 837.05(2), F.S.)

Revocation

(b) For the perpetration by the officer of an act that which would constitute any of the misdemeanor offenses, pursuant to Rule 11B-27.0011(4)(b), F.A.C., but where there was not a violation of Section 943.13(4), F.S., the action of the Commission shall be to impose a penalty ranging from; probation of certification to ~~revocation~~ suspension of certification. Specific violations and penalties that shall ~~will~~ be imposed, absent aggravating or mitigating circumstances, include the following:

<u>Violation:</u>	<u>Recommended Penalty Range</u>
1. Assault (784.011, F.S.)	Suspension of certification
2. Battery (784.03, F.S.)	Suspension of certification
3. Petit theft (812.014, F.S.)	Suspension of certification to revocation
4. False reports <u>and statements</u> (817.49, <u>837.012</u> , 837.05(1), 837.06, 944.35(7)(a), F.S.)	Revocation
5. Reckless display of firearm with (790.01, F.S.)	Probation of certification training
6. <u>Discharging</u> firearm <u>in public</u> (790.15, F.S.)	Suspension of certification
Reckless discharge of	
7. Passing a worthless check (832.05, F.S.)	Probation of certification
8. Prostitution or lewdness (796.07, F.S.)	Revocation
9. Indecent exposure (800.03, F.S.)	Suspension of certification and probation with counseling to <u>revocation</u>
10. Driving <u>or</u> boating under the influence (316.193 and 327.35, F.S.)	Probation of certification with counseling
11. Possession or delivery without consideration, and not more than 20 grams of Cannabis (893.13, F.S.)	Revocation
12. <u>Neglect or Refusal to Aid</u> (843.06, F.S.)	<u>Suspension of certification to revocation</u>

(c) For the perpetration by the officer of an act or conduct, as described in Rule 11B-27.0011(4)(c), F.A.C., if such act or conduct does not constitute a crime, ~~as described in paragraphs (5)(3)(a) and (b);~~ of this rule section, the action of the Commission shall be to impose the following penalties, a ~~penalty ranging from the issuance of a reprimand to revocation~~. Specific violations and penalties that ~~will~~ be imposed, absent aggravating or mitigating circumstances, include the following:

<u>Violation:</u>	<u>Recommended Penalty Range:</u>
1. Excessive use of force, under the color of authority	Suspension of certification to revocation
2. Sexual harassment involving physical contact or misuse of position	Probation of certification with training to suspension
3. Misuse of official position	Suspension of certification
4. Engaging in sex while on duty	Suspension of certification Probation to revocation
5. Unprofessional relationship with an inmate, detainee, probationer or parolee, or community controlee	Revocation
6. False statements <u>during the employment application process</u>	Suspension Probation of certification to revocation
7. <u>Subverting the Officer Certification Examination Process</u> Engage in conduct which violates the standards of test administration, such as communication with any other examinee or intentionally allowing one's answers to be copied by another examinee during the administration of the examination	Revocation
8. <u>Subverting Commission-approved training or employing agency promotional examination process.</u> Engage in any other conduct which subverts or attempts to subvert the Criminal Justice Standards and Training Commission, criminal justice training school, or employing agency examination process.	Suspension Probation of certification to revocation

(d) Notwithstanding paragraph (4); of this rule section, for the unlawful use by a certified the officer of any of the controlled substances specified in Section 893.13, F.S., or Rule 11B-27.00225 ~~11B-27.0025~~, F.A.C., pursuant to Rule 11B-27.0011(4)(d), F.A.C., the action of the Commission, absent clear and convincing evidence of complete rehabilitation and substantial mitigating circumstances, shall be to impose a penalty of revocation.

(6) The Commission shall be entitled to deviate from the ~~above mentioned~~ disciplinary guidelines in this rule section, upon a showing of aggravating or mitigating circumstances; by evidence presented to the Commission, if pursuant to Section 120.57(2), F.S., or to an Administrative Law Judge a hearing officer, if pursuant to Section 120.57(1), F.S., prior to the imposition of a final penalty. The Commission shall base a deviation from the disciplinary guidelines upon a finding of one (1) or more of the following aggravating or mitigating circumstances:

(a) Aggravating circumstances:

1. Whether the certified officer used ~~his or her~~ official authority to facilitate the misconduct.
2. ~~(b)~~ Whether the misconduct was committed while the certified officer was performing ~~his or her~~ other duties.
3. The number of violations found by the Commission.

4. The number and severity of prior disciplinary actions taken against the certified officer by the Commission, to include a prior Letter of Guidance or Letter of Acknowledgment.
5. The severity of the misconduct.
6. The danger to the public.
7. The actual damage, physical or otherwise, caused by the misconduct.
8. The lack of deterrent effect of the penalty imposed by the employing agency.
9. The pecuniary benefit or self-gain to the officer realized by the misconduct.
10. Whether the misconduct was motivated by unlawful discrimination.
11. Any behavior constituting "domestic violence" defined by Section 741.28(1), F.S.
 - (b) Mitigating circumstances:
 1. ~~(e)~~ The officer's employment status in a position requiring Criminal Justice Standards and Training Commission certification at the time of the final hearing before the Commission.
 2. ~~(d)~~ The recommendations of character or employment references.
 3. The lack of severity of the misconduct.
 4. The length of time the certified officer has been certified.
 5. Any effort of rehabilitation by the certified officer.
 6. The effect of disciplinary or remedial action taken by the employing agency or recommendations of employing agency administrator.
 - ~~(e) The number of violations found by the Commission.~~
 - ~~(f) The number of prior disciplinary actions taken against the officer by the Commission.~~
 - ~~(g) The severity of the misconduct.~~
 - ~~(h) The danger to the public.~~
 - ~~(i) The length of time since the violation.~~
 - ~~(j) The length of time the officer has been certified.~~
 - ~~(k) The actual damage, physical or otherwise, caused by the misconduct.~~
 - ~~(l) The deterrent effect of the penalty imposed.~~
 - ~~(m) Any effort of rehabilitation by the officer.~~
 - ~~(n) The effect of the penalty upon the officer's livelihood.~~
 - ~~(o) The penalties imposed for other misconduct.~~
 - ~~(p) The pecuniary benefit or self-gain to the officer realized by the misconduct.~~
 - ~~(q) The officer's compliance with the terms and conditions of any Commission-ordered probation.~~
 - ~~(r) Whether the misconduct was motivated by unlawful discrimination.~~
 - ~~(s) Prior Letter of Guidance or Letter of Acknowledgment.~~

~~(t) The effect of disciplinary or remedial action taken by the employing agency and/or recommendations of employing agency administrator.~~

~~(u) Multiple counts of violations of Section 943.13(7), F.S.~~

~~(v) Any behavior constituting "domestic violence" as defined by Section 741.28(1), F.S., shall be an aggravating circumstance.~~

(7) The Commission shall impose one or more of the following penalties; listed in increasing order of severity:

(a) The issuance of a reprimand.

(b) Successful completion by the certified officer of any Basic Recruit, Advanced, or Career Development Training Program, or such retraining deemed appropriate by the Commission.

(c) Placement on a probationary status for a period not to exceed 2 years and subject to the terms and conditions imposed by the Commission. The following terms and conditions of probation ~~shall may~~ include; the following, but are not limited to:

1. Periodic reports from the officer, supervisor, or counselor; indirect or direct supervision by Commission Division staff or a Commission-approved supervisor.

2. Furnishing urine samples and consents to the release of analysis results of random or scheduled urine drug tests and personal appearance(s) before the Commission.

3. Participation in psychological, occupational, or substance abuse counseling.

4. Successful completion of training or retraining, ~~as specified in paragraph (5)(b) and (c);~~ of this rule section.

5. Maintaining employment.

6. Refraining from violations of Sections 943.13(4) and (7), F.S.

7. The payment of restitution for damages or loss created by the certified officer's misconduct.

8. Any other terms or conditions as appropriate.

9. The effective date of any period of probation imposed on a respondent by the Commission ~~shall will~~ begin fifteen days from the filing date of the Final Order, unless such probation is to follow a period of prospective suspension. ~~Commission Division staff shall will~~ monitor the probation status of each officer to ensure compliance with the conditions of probation ~~and will present periodic reports to the Commission as to the status of each officer placed on probation. Commission staff shall~~ The Division will also report to the Commission satisfactory completion of probation, as well as any violations of the conditions of probation. If the officer violates any of the conditions of probation, Commission staff shall ~~the Division will~~ report the violations to the Commission for consideration of further disciplinary action, pursuant to paragraph (3) of this rule section, and Section 943.1395(7)(c), F.S. with Rule 11B-27.005, F.A.C.

(d) Suspension of certification and the privilege of employment as an officer for a period not to exceed 2 years.

(e) Revocation of certification.

(8)(a) The provisions of paragraphs (1) through (7); of this rule section, are not intended; and shall not be construed; to limit the ability of the Commission to pursue or recommend collateral, civil, or criminal actions when appropriate.

(b) The provisions of paragraphs (1) through (7); of this rule section, are not intended; and shall not be construed; to limit the ability of the Commission to informally dispose of disciplinary actions by stipulation, agreed settlement, or consent order, pursuant to Section 120.57(4)(3), F.S.

(9) Action by the Commission disciplining an officer's certification shall concurrently discipline all other certifications of any nature issued to that officer by the Criminal Justice Standards and Training Commission pursuant to Sections 943.1395(1) and 943.12(3), F.S., and Rules 11B-20.001, and 11B-27.002, F.A.C.

Specific Authority 943.03(4), 943.12(1), 943.1395(7) FS. Law Implemented 120.60(5), 120.60(7), 120.62, 943.12(2),(3), 943.1395(5)-(7),(6) FS. History—New 10-6-82, Amended 1-7-85, Formerly 11B-27.05, Amended 3-29-89, 12-13-92, 2-17-93, 1-19-94, 8-7-94, 11-5-95, 1-2-97, _____.

11B-27.007 Denial of Certification.

Should the Commission find that an applicant for certification fails to meet the qualifications established pursuant to Section 943.13(1) through (10), F.S., or any rules promulgated thereunder, the Commission shall notify the applicant by submitting forwarding a statement of denial, and shall forward with a copy to the agency that submitted ~~submitting~~ the application for certification. The statement of denial shall specify the basis for Commission action, and shall be forwarded to the applicant pursuant to the procedures of in ~~accordance with procedures as specified in Rule Chapter 120, F.S., Administrative Procedure Act, and the Uniform Model Rules of Procedure, Rule Chapter 28, F.A.C.~~

Specific Authority 943.03(4), 943.12(1) FS. Law Implemented 120.60 120.60(7), 120.62, 943.12(1),(2), 943.1395 FS. History—New 10-6-82, Amended 1-7-85, Formerly 11B-27.07, Amended _____.

11B-27.010 Default.

In the event the respondent, who has been served with an Administrative Complaint, or an applicant, who has been served with a Statement of Denial, fails to respond within 30 calendar days from the date of service, as set forth in the Explanation of Rights, such failure shall be considered a waiver of the respondent's his/her rights to a hearing pursuant to Section 120.569 120.57, F.S., and a default may be entered, but only after a prima facie case is presented against the respondent or applicant, regardless of whether or not the respondent he/she is in attendance.

Specific Authority 943.03(4), 943.12(1), 120.53, 943.03(3), 943.12(9) FS. Law Implemented 120.54(5), 120.53, 120.60 120.60(7), 120.62, 943.12(1),(2),(9), 943.13, 943.14(1),(2),(3), 943.19 FS. History—New 10-6-82, Amended 12-28-83, Formerly 11B-27.10, Amended 6-2-91, 1-2-97, _____.

11B-27.011 Recommended Order.

(1) Within 30 days of the Administrative Hearing, the Administrative Law Judge shall hearing officer will file a written report with the Commission containing a statement of issues, findings of fact, conclusions of law, and a recommended order.

(2) Unless a consent order between all parties and the Commission has been signed, the Commission shall issue a final order within ninety (90) days of receipt of the recommended order pursuant with Section 120.57(1)(h)-(i) and 120.569, F.S. 120.57(1)(b)8. and 9., F.S., and Section 120.59, F.S.

(3) The respondent shall be notified by the Commission, either personally, or by mail, by the Commission, of the recommended order constituting final agency action, and unless waived, a copy of the final order shall be delivered or mailed to the respondent or to the respondent's his/her attorney of record.

Specific Authority 943.03(4), 943.12(1), 120.53, 943.03(3), 943.12(9) F.S. Law Implemented 120.53 120.54(5), 120.60, 943.12(1),(2),(9), 943.13, 943.14(1)-(3),(2),(3), 943.19 F.S. History—New 10-6-82, Formerly 11B-27.11, Amended

11B-27.013 Canine Team Certification.

(1) Definition. As used herein, Tthe term “canine team” referred to in this rule section, shall refer to a specific person and a specific canine controlled by that person, in the capacity of a handler, working together in the performance of the law enforcement or correctional duties of apprehending suspected criminals. This definition does not include canines used utilized by law enforcement or correctional personnel, who are used exclusively for tracking, explosives, detection, or controlled substances detection.

(2) The duties performed by canine teams may present a high risk of harm to the officer or the public at large, and may in turn increase the potential liability of an employing agency.

(3) For those applicants who have not been previously certified and who have met all certification requirements pursuant to Section 943.12(17), F.S., an employing agency shall file with Commission staff a General Duty K9 Team Application CJSTC-70, revised June 16, 1998, hereby incorporated by reference, which shall certify that the applicant is eligible for certification by the Commission.

(4)(3) The Commission shall certify a canine team that which meets the following requirements on or after January 1, 1989, by completing a General Duty K-9 Team Application form CJSTC-70, which shall be maintained by the agency employing the canine team:

(a) Successful completion of the Commission-approved 400-hour Canine Team Training Course instructed by a Commission or United States Police Canine Association certified canine team instructor. In lieu of the instructor's signature on the General Duty K-9 Team Application form CJSTC-70, the following documents shall be accepted:

1. A letter from the employing agency administrator that documents successful completion of the course, if the canine team training course or equivalency was completed at that agency; or

2. A Certificate of Completion for the canine team training course, or equivalency, from either the Commission-certified criminal justice training school, or from the private provider or facility of the training.

(b) Successfully demonstrate proficiency, by completing a General Duty K-9 Team Proficiency Examination CJSTC-83 form, revised June 17, 1998, hereby incorporated by reference, under the supervision of two (2) certified canine team instructors/evaluators, one (1) of whom is not employed by a Commission-certified criminal justice the training school, or agency offering the training, in all of the following areas:

1. The handler's ability to control and obtain the obedience of the canine.

2. The effectiveness of the team in simulated criminal suspect apprehension.

3. The effectiveness of the team in conducting simulated building searches.

4. The effectiveness of the team in conducting simulated searches of open areas.

(c) Documentation. Regardless of where the canine training takes place, records of training and certification, which shall include documents required pursuant to paragraph (3)(a)-(b) in this rule section, shall be maintained by the agency employing the canine team. If certification is based upon equivalent training, documentation of that training shall be included in the record.

(d)(e) Certified canine team instructors may evaluate prior training and experience of a handler or team to determine equivalency of training and exempt the applicant team from some or all of the required training, based upon criteria specified in the Criminal Justice Standards and Training Commission Policies and Procedures Manual, provided that the applicant team complies with paragraph (3)(b); of this rule section.

(5)(4) Each certification shall lapse, if not renewed, on December 31 of the year following subsequent to the year of initial certification. A canine team certification may be renewed by compliance with paragraph (3)(b); of this rule section. A canine team certification shall lapse should the specific handler and canine, as originally paired at the time of certification, cease to routinely perform canine team functions together.

(6) An Application for K-9 Team Certification Deficiency Notification form CJSTC-270, January 21, 1999, hereby incorporated by reference, shall be completed by a Commission Field Specialist upon an unfavorable inspection of required documents. The CJSTC-270 form shall indicate any deficiencies in the General Duty K-9 Team Application form CJSTC-70, and missing or incorrect documentation that

is required for canine team certification, pursuant to the Criminal Justice Standards and Training Commission Policies and Procedures Manual.

Specific Authority 943.03(4), 943.12(1) FS. Law Implemented 943.12(17) FS. History—New 3-29-89, Amended 12-13-92, 1-2-97, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
OMCI Donna Hunt, FDLE, Criminal Justice Professionalism Program

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Program Director A. Leon Lowry, II, FDLE, Criminal Justice Professionalism Program

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: December 8, 1998

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN THE FAW: November 13, 1998

DEPARTMENT OF LAW ENFORCEMENT

Criminal Justice Standards and Training Commission

RULE CHAPTER TITLE:	RULE CHAPTER NO.:
Officer Certification Examination	11B-30
RULE TITLES:	RULE NOS.:
Administration and Security of Comprehensive Examination	11B-30.0045
Application for State Officer Certification Examination, Eligibility Requirements	11B-30.006
Notification of Applicants	11B-30.007
Examination Administration	11B-30.008
Conduct at Test Site and Notice of Protection of the Program’s Privileges	11B-30.009
Persons Charged with Violations – Right of Hearing	11B-30.010
Grade Notification	11B-30.011
Applicant Review of Examination Questions, Answers	11B-30.012
Challenge to Examination Results	11B-30.013

PURPOSE AND EFFECT: The purpose and effect of the proposed rule revisions are to change the name of the Rule Chapter 11B-30, F.A.C., from “Examinations”, to “Officer Certification Examination, to revise rule section titles, to correct statutory and rule references; to reconstruct sentences for clarification of existing rule language; to incorporate grammatical revisions; to comply with Section 943.10, F.S., reference correct names cites; to comply with 1998 Legislation amending Section 943.09, F.S., changing the name of the “Division of Criminal Justice Standards and Training,” to the “Criminal Justice Professionalism Program,” and to comply with 1998 Legislation amending Section 943.10(12), F.S., changing the reference of “Division” to “Program.” Pursuant to Section 943.09, F.S., program staff are also Commission staff who support the Commission, therefore the reference to “Division” has been changed in Rule Chapter 11B-30 to “Commission staff”; to repeal Rule 11B-30.0045, F.A.C.,

Administration and Security of Comprehensive Examination and transfer portions of its language to Rule 11B-35.0085, F.A.C., Criminal Justice Training School Requirements for the Administration and Security of Comprehensive Examination; to change the name of the “review course”; to change when “applications to sit for the Officer Certification Examination” shall be received by Commission staff. Applications shall be received by the established deadline date, which shall be at least 21 days prior to the published scheduled examination date; to amend rule language regarding documentation required at the test administration site; to add rule language to allow rescheduling of the licensure test if the applicant has been issued a subpoena to appear in court; and to adequately address the schedule for re-taking the Officer Certification Examination.

SUMMARY: Rule Chapter 11B-30, F.A.C., is being revised to incorporate housekeeping revisions due to amendments to Chapter 943, F.S., and to clarify rule language and implement new policy for the examination administration and application requirements to sit for the Officer Certification Examination.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: None.

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

SPECIFIC AUTHORITY: 943.03(4), 943.12(1) FS.

LAW IMPLEMENTED: 943.173, 943.1397, 943.12(18) FS.

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

TIME AND DATE: 4:45 p.m., May 3, 1999

PLACE: 2331 Phillips Road, Elevator Conference Room, Quad C, 3rd Floor, Tallahassee, Florida 32308-1489

NOTICE UNDER THE AMERICANS WITH DISABILITIES ACTS: Please contact Donna Hunt, Florida Department of Law Enforcement, Criminal Justice Professionalism Program, 2331 Phillips Road, Tallahassee, Florida 32308-1489.

Pursuant with the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this program, please advise the Department at least 2 weeks prior to the workshop by contacting Donna Hunt at TDD#: (850)656-9597.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Donna Hunt, Florida Department of Law Enforcement, Criminal Justice Professionalism Program, 2331 Phillips Road, Tallahassee, Florida 32308-1489, (850)410-8615

THE FULL TEXT OF THE PROPOSED RULES IS:

11B-30.0045 Administration and Security of Comprehensive Examination.

Specific Authority 943.12(1) FS. Law Implemented 943.173) FS. History--New 1-2-97, Repealed _____.

11B-30.006 Application for State Officer Certification Examination, Eligibility Requirements.

(1) The following ~~individuals~~ ~~persons~~ are eligible to ~~sit for~~ ~~take~~ the Officer Certification Examination:

(a) ~~Individuals~~ ~~Persons~~ who have successfully completed ~~graduated from~~ a Commission-approved Basic Recruit Training Program or Cross-Training Program within the past four (4) years.

(b) Non-active Florida certified officers who have a break-in-service of more than four (4) years. Prior to ~~sitting for~~ ~~taking~~ the State Officer Certification Examination ~~examination~~, these officers ~~shall~~ ~~must~~ complete either the Law Enforcement, Correctional, or Correctional Probation Officer Certification Examination Qualification Review ~~Course~~, at a Commission-certified criminal justice training school pursuant to Rule 11B-35.008, F.A.C.

(c) ~~Individuals who~~ ~~Persons that~~ have successfully completed the Florida Basic Recruit Training Program, or a comparable Basic Recruit Training Program in another state, or for the Federal Government, and have served as full-time sworn officers in another state or for the Federal Government for at least one (1) year, and are approved for an exemption from completing a Commission-approved Basic Recruit Training Program pursuant to Rule 11B-35.009 and .010, F.A.C. Prior to ~~sitting for~~ ~~taking~~ the State Officer Certification Examination, ~~examination~~ these ~~individuals~~ ~~persons~~ ~~must~~ successfully complete the either the Law Enforcement, Correctional, or Correctional Probation Officer Certification Examination Qualification Review ~~Course~~, appropriate for the discipline for which the individual is seeking certification, at a Commission-certified criminal justice training school pursuant to Rule 11B-35.008, F.A.C.

(2) Students shall successfully pass the State Officer Certification Examination within four (4) years of graduation from one of the Commission's Basic Recruit Training Programs.

(3)(2) ~~Individuals~~ ~~Persons~~ wishing to apply for the State Officer Certification Examination ~~shall~~ ~~must~~ use the Officer Certification Examination Application form; CJSTC-500, April 1, 1994 effective November 1996, hereby incorporated by reference. The application form; CJSTC-500, may be obtained from a Commission-certified criminal justice training school or the Florida Department of Law Enforcement, Criminal Justice Professionalism Program ~~Division of Criminal Justice Standards and Training~~. Applications to sit for the State Officer Certification Examination ~~shall~~ ~~must~~ be received by Commission staff by the established deadline date, which shall be at least 21 days prior to the published scheduled examination date, pursuant to the Criminal Justice Standards

and Training Commission Policies and Procedures Manual, January 1999, hereby incorporated by reference. The application shall be accompanied by the following: the Division at least 21 days prior to the examination date, and must be accompanied by the following:

(a) Applicants who have completed a Basic Recruit or Cross-Training Program, ~~shall~~ ~~must~~ submit with the original application, a \$75 application fee, ~~that shall~~ ~~which~~ ~~must~~ be a cashier's check, money order, or a public agency's instrument made payable to the Criminal Justice Standards and Training Trust Fund.

(b) Applicants shall bring to the test administration site, proof of successful completion of a Commission-approved Basic Recruit Training Program or Officer Certification Examination Qualification Course appropriate for the discipline for which the individual is seeking certification. Training shall have been completed not more than graduation from a Commission-approved Basic Recruit or Cross-Training Program within four (4) years; prior to the examination date, in the form of a copy of a Certificate of Completion, or a letter from the criminal justice training center director. The following documentation shall be acceptable:

1. A Certificate of Completion, or duplicate, that shall contain the name of the Commission-certified criminal justice training school, applicant's name, discipline and training program completed, training completion date, number of hours completed, and signature of the training center director; or

2. A Letter of Completion submitted in lieu of a Certificate of Completion, which shall be an original letter, on training center letterhead, and signed by the training center director. The letter of completion shall include the discipline and training program completed, the training completion date, and number of hours completed.

(c)(b) Non-active Florida certified officers who have a break-in-service of more than four (4) years ~~shall~~ ~~must~~ submit with the original application, a \$75 application fee, which ~~shall~~ ~~must~~ be a cashier's check, money order, or public agency's instrument, made payable to the Criminal Justice Standards and Training Trust Fund. Applicants ~~shall~~ ~~must~~ bring to the test administration site;:

1. ~~P~~ Proof of graduation from a Commission-approved Officer Certification Examination Qualification Course, in the form of a copy of a Certificate of Completion form, or

2. ~~A~~ a letter from the criminal justice training center director, pursuant to paragraph (2)(b)-(c) of this rule section.

(d)(e) ~~Individuals who~~ ~~Persons that~~ have successfully completed the Florida Basic Recruit Training Program, or a comparable Basic Recruit Training Program in another state or for the Federal Government, and have served as full-time sworn officers in another state or for the Federal Government, for at least (1) one year, ~~shall~~ ~~must~~ submit with the original application, a \$75 application fee, which ~~shall~~ ~~must~~ be a cashier's check, money order, or public agency's instrument,

made payable to the Criminal Justice Standards and Training Trust Fund. Applicants ~~shall~~ ~~must~~ bring to the test administration site;

1. ~~P~~proof of graduation from a Commission-approved Officer Certification Examination Qualification Course, in the form of a copy of a Certificate of Completion, or

2. ~~A~~ letter from the criminal justice training center director pursuant to paragraph (2)(b)-(c) of this rule section.

(4)(3) Should an applicant fail all or part of the examination, the applicant he/she shall be allowed to make application for re-examination upon meeting the following conditions:

(a) Applications for permission to sit for a first re-examination ~~shall~~ ~~must~~ be received by Commission staff by the established deadline date, which shall be at least 21 days prior to the published scheduled examination date. ~~the Division at least 21 days prior to the scheduled examination.~~

(b) The items to be submitted with the application for re-examination are, a \$75 application fee, which ~~shall~~ ~~must~~ be a cashier's check or a money order made payable to the Criminal Justice Standards and Training Trust Fund, and a copy of the applicant's grade sheet from the previous failed examination.

(5)(4) Should an applicant fail all or part of the first re-examination, the re-take applicant shall be allowed to make application for a second re-examination. Prior to making such application, the applicant ~~shall~~ ~~must~~ re-take; and successfully complete; the Basic Recruit Training Courses areas of basic recruit training that correspond to the examination section(s) area(s) failed. Students re-taking the high-liability training courses are required to complete only the academic portions of the courses.

(6)(5) Applications for permission to sit as an applicant for a second re-examination, ~~shall~~ ~~must~~ be received by Commission staff by the established deadline date, which shall be at least 21 days prior to the published scheduled examination date ~~the Division at least 21 days prior to the scheduled re-examination.~~

(7)(6) The items to be submitted with the application are;

(a) ~~A~~ \$75 application fee, which ~~shall~~ ~~must~~ be a cashier's check or money order made payable to the Criminal Justice Standards and Training Trust Fund, and

(b) ~~A~~ copy of the applicant's grade sheet from the last re-examination. Applicants ~~shall~~ ~~must~~ bring to the administration site, documentation required by paragraph (2)(b) of this rule section.

(c) A Certificate of Completion or duplicate that provides the following information:

1. The name of the Commission-certified criminal justice training school.

2. The applicant's name.

3. The discipline for which certification is being sought.

4. Name(s) and CJD number(s) of the remedial course(s) completed and completion date of each individual course.

5. The signature of the training center director; or

6. A Letter of Completion, which shall be an original letter, on training center letterhead signed by the training center director, and shall specifically identify the discipline and training program completed, name(s) and CJD number(s) of the remedial course(s) taken, and completion date of each individual course.

~~(a) Proof of graduation from a Commission-approved Officer Certification Examination Qualification Course in the form of a copy of a certificate of successful completion; or a~~

~~(b) A letter from the criminal justice training center director stating that the applicant has successfully completed the required training courses which corresponds to the failed section(s) of the first re-examination.~~

(8)(7) If an applicant fails to successfully pass the State Officer Certification Examination after three attempts, the applicant may not sit for the examination again until the applicant has re-enrolled in a complete Basic Recruit Training Program, and satisfied all requirements for successful completion within the discipline for which the applicant is seeking certification.

(9)(8) The applicant may request rescheduling to sit for the examination if either of the following conditions exist:

(a) The applicant is unable to sit for the State Officer Certification Examination by reason of military service, and provides a copy of military orders or a letter from the applicant's commanding officer to Commission staff ~~the Division~~; or

(b) The applicant can demonstrate; to the satisfaction of Commission staff ~~the Division~~, that serious injury, illness, or other physical impairment to the applicant; or a member of the applicant's immediate family, or the death of a member of the applicant's immediate family, made it impossible to sit for take the State Officer Certification Examination. Requests shall be substantiated by the following:

1. ~~A~~ statement; on official letterhead; from the treating physician describing the injury, illness, or physical impairment, and lists the which gives dates of treatment and/or confinement, and affirms attests that such injury, illness, or physical impairment made it impossible for the applicant to sit for take the State Officer Certification Examination, or

2. ~~A~~ copy of the immediate family member's death certificate, or

3. ~~A~~ statement on official letterhead from the funeral home that was responsible for funeral arrangements for the deceased family member.

(c) If the applicant has been issued a subpoena to appear in court, the applicant shall provide Commission staff with a copy of the subpoenas substantiating the court dates for their appearance in court, and the date the subpoena(s) was issued to the applicant.

~~(10)(9)~~ Any requests for applicant rescheduling authorized pursuant to paragraph (6) of this rule section, Rule 11B-30.006(6), F.A.C., shall be submitted in writing to Commission staff the Division. Unless otherwise stated, rescheduling granted in this rule section remains subject to all requirements for eligibility, pursuant to paragraphs (1)-(6) of this rule section, Rule 11B-30.006(1)-(6),(2),(3),(4), F. A. C.; however, no additional application fee shall will be charged.

~~(11)(10)~~ If a some mechanical fault, natural event, or other problem associated with the administration or grading of the examination occurs, Commission staff the Division shall permit rescheduling of all or part of the examination without further application by, or cost to the applicant. The applicant shall receive a letter of rescheduling within 30 working days of discovery of the problem associated with the administration or grading of the examination. Re-scheduling of the examination, pursuant to this rule section, does not constitute a re-examination pursuant to Section 943.1397(2), F.S.

(12) Commission-certified criminal justice training schools may order officer certification examination supplies by completing a Training School Examination Supplies Request form CJSTC-514, revised January 21, 1999, hereby incorporated by reference, and submitting to the Criminal Justice Professionalism Program, Certification Examination Section.

~~(13)(11)~~ All forms and the Criminal Justice Standards and Training Commission Policies and Procedures Manual referenced in this rule chapter, may be obtained by contacting the Florida Department of Law Enforcement, Criminal Justice Professionalism Program Division of Criminal Justice Standards and Training, Post Office Box 1489, Tallahassee, Florida 32302-1489, Attention: Director's Office, Forms and/or Manual Liaison.

Specific Authority 943.03(4), 943.12(1) FS. Law Implemented 943.173, 943.1397, 943.12(18) FS. History-New 1-10-94, Amended 8-7-94, 1-2-97, _____.

11B-30.007 Notification of Applicants.

(1) If an applicant meets the requirements to sit for the State Officer Certification Examination, Commission staff shall the Division will schedule the applicant for the requested examination site and date.

(2) If an applicant cannot be scheduled for the examination site and date requested, the applicant shall will be scheduled for the first available site and date in the geographical area of the requested site.

(3) Commission staff shall The Division will notify applicants, by mail prior to the date of the Officer Certification Examination, of the testing site, and the date and time of the State Officer Certification Examination, by mail, prior to the date of the examination.

Specific Authority 943.03(4), 943.12(1) FS. Law Implemented 943.173, 943.12(18) FS. History-New 1-10-94, Amended 1-2-97, _____.

11B-30.008 Examination Administration.

(1) During all examinations, applicants shall will follow the instructions of the examination administrator. Failure to comply with the administrator's instructions shall will result in disqualification from the examination session, and forfeiture of the application fee.

(2) Commission staff shall The Division will refuse admission of applicants to sit for the examination for any individual to any person who does not present a valid driver's license or a criminal justice agency photo I.D., or a Florida Identification Card issued by the Department of Highway Safety and Motor Vehicles.

(3) An No applicant shall not will be admitted to the examination administration after the door to the examination site is closed. The applicant shall will forfeit the examination fee and may re-apply to Commission staff the Division to sit for take the examination, and shall will again have to comply with all of the provisions of Rule 11B-30.006, F.A.C.

(4) All examination booklets, answer sheets, and other examination papers and materials are the sole property of Commission staff the Division. An No applicant shall not remove take any of the examination booklets, answer sheets, and/or other examination papers or materials from the examination room, or retain or reproduce the materials in whole, or in part, by any means or method whatsoever.

Specific Authority 943.03(4), 943.12(1) FS. Law Implemented 943.173, 943.12(18) FS. History-New 1-10-94, Amended 8-7-94, 1-2-97, _____.

11B-30.009 Conduct at Test Site and Notice of Protection of the Program's ~~the Division's~~ Privileges.

(1) The examination administrator and proctors are Commission staff's the Division designated agents and are responsible for in maintaining a secure and proper examination administration.

(2) Any individual observed to have engaged in conduct that which subverts or attempts to subvert the examination process, shall have their his/her scores on the State Officer Certification Examination withheld and/or declared invalid, and the individual shall be subject to the imposition of other appropriate sanctions by the Commission, the Division, pursuant to Section 943.13(7), F.S., and Rule Chapter 11B-27.007, F.A.C.

(3) Conduct that which subverts or attempts to subvert the examination process includes:

(a) Conduct that which violates the security of the State Officer Certification Examination materials are as follows:

1. such as Rremoving from the examination room any of the examination materials.;

2. Rreproducing or reconstructing any portion of the examination.;

3. Aiding by any means in the reproduction of any portion of the examination.;

4. Selling, distributing, buying, receiving, or having unauthorized possession of any portion of a past, current, or future State Officer Certification Examination.

(b) Conduct that which violates the standards of test administration is as follows:-

1. ~~Such as~~ Communication with any other examinee during the administration of the examination. ~~Officer Certification Examination;~~

2. Copying answers from another examinee, or intentionally allowing one's answers to be copied by another examinee during the administration of the examination; ~~and~~

3. Having in one's possession during the administration of the examination, any books, notes, written, or printed materials or data of any kind.

(c) Conduct that which violates the applicant identification process is as follows:- such as

1. Falsifying or misrepresenting information required for admission to the State Officer Certification Examination; ~~and~~

2. Impersonating an examinee; ~~or~~

3. Having an impersonator sit for take the examination on one's behalf.

(4) Any violation of the provisions of Rule 11B-30.009(3), F.A.C., or other irregularity shall will be documented in writing by a Commission staff the Division agent(s), and documentation of the violation or irregularity shall will be presented to the appropriate regulatory section within the Criminal Justice Professionalism Program the Division for action by Commission staff. A Commission staff The Division agent(s) shall exercise extreme care in their documentation to ensure that the violation or irregularities are precisely recorded as they were witnessed.

(5) Individuals Persons who engage in conduct that which subverts or attempts to subvert the State Officer Certification Examination process, shall at a minimum be ineligible for re-examination for a period of (5) five years, or may be denied certification by the Commission pursuant to Chapter 943, F.S.

Specific Authority 943.03(4), 943.12(1) FS. Law Implemented 943.173, 943.12(18) FS. History--New 1-10-94, Amended 1-2-97, _____.

11B-30.010 Persons Charged with Violations – Right of Hearing Appeal.

(1) An applicant charged by Commission staff the Division with a violation of Rule 11B-30.009(2) or (3), F.A.C., may, within 30 days of receipt of notice of being charged with such violation, request a hearing appeal thereof, by filing a written request with Commission staff the Division.

(2) The applicant's request shall must specify the nature of the dispute with Commission staff the Division. Upon filing a timely request, the applicant shall will be provided a hearing pursuant to Section 120.569 ~~120.57~~, F.S.

Specific Authority 943.03(4), 943.12(1) FS. Law Implemented 943.173, 943.12(18) FS. History--New 1-10-94, Amended _____.

11B-30.011 Grade Notification.

(1) Commission staff ~~The Division~~ shall notify the applicant of the examination results approximately 30 days after the examination date.

(2) Applicant(s) failing the State Officer Certification Examination shall will be notified of the subject area(s) failed, along with the requirements for re-examination and the review procedures.

Specific Authority 943.03(4), 943.12(1) FS. Law Implemented 943.173, 943.12(18) FS. History--New 1-10-94, Amended 1-2-97, _____.

11B-30.012 Applicant Review of Examination Questions, Answers.

(1) Pursuant to Section 119.07(3)(c), F.S., applicants who have taken the State Officer Certification Examination shall have the right to review a copy of their examination questions and answers.

(2) Reviews shall be conducted in the presence of a Commission staff representative of the Division, at a site designated by Commission staff the Division, during regular working hours, which are defined as 8:00 a.m. through 5:00 p.m., Monday through Friday, excluding official state holidays.

(3) Applicants who have taken the State Officer Certification Examination may request and receive an appointment for review of their examination. Applicants may review their examination for the purpose of filing objections to the examination, subject to the following conditions:

(a) The Officer Certification Examination Grade Review Request for Review, form; CJSTC-510, revised October 19, 1998, effective November 1996, hereby incorporated by reference, shall must be received by Commission staff the Division within 45 calendar days from the applicant's their examination date. The request shall must include a copy of the applicant's their grade notification.

(b) Such review shall must be completed within 40 calendar days of Commission staff's the Division receipt of the Grade Review Request form CJSTC-510 Request for Review form.

(c) At the examination review, the applicant shall be permitted to record, on forms provided by Commission staff, the Division, all objections to the examination under review Officer Certification Examination. Such forms shall remain in the custody of Commission staff, the Division, and shall will be evaluated pursuant to the procedures outlined in paragraph (3)(h) of this rule section. ~~Rule 11B-30.012(3)(h), F.A.C.~~

(d) A Commission staff representative of the Division shall remain with the applicant throughout the review process. No person, other than the applicants and Commission staff Division representatives, shall will be allowed to be present during the review.

(e) The applicant shall not copy questions or answers from the test materials. The applicant may write on a separate paper, in the presence of a Commission staff ~~the Division~~ representative, any questionable item number(s) or other objections to the State Officer Certification Examination.

(f) The applicant shall be permitted to leave with a form listing the question numbers. All written objections and questions shall remain ~~be left~~ with a Commission staff ~~the Division~~ representative when leaving the review room. Pursuant to Section 943.173(2), F.S., examination materials are exempt from the provisions of Section 119.07, F.S.

(g) Upon completion of the review, an Acknowledgment of Exam Grade Review form, CJSTC-511, revised October 19, 1998, effective November 1996, hereby incorporated by reference, shall ~~will~~ be signed by the applicant and a Commission staff ~~the Division~~ representative shall document ~~documenting~~ the starting time and ending time of the review, the materials reviewed, and any other pertinent information about the review session.

(h) All legible, substantive, and specific objections to the examination or examination portion, ~~for on~~ which the applicant failed to achieve a passing score, shall ~~will~~ be processed by Commission staff ~~the Division~~ as follows:

1. To evaluate challenges to the examination, objections ~~Objections to the~~ written examinations, shall ~~will~~ be evaluated by at least one expert in the appropriate field, ~~to evaluate the challenges to the examination.~~

2. If Commission staff determines ~~the Division finds~~ that the original grade was not rendered pursuant with the grading criteria, the then that portion, or the entire examination, whichever is appropriate, shall ~~will~~ be re-scored.

(j) Commission staff ~~The Division~~ shall notify the applicant in writing of the evaluation decision within 30 working days of the completion of the evaluation of objections.

Specific Authority 943.03(4), 943.12(1) FS. Law Implemented 943.173, 943.12(18) FS. History—New 1-10-94, Amended 1-2-97, _____.

11B-30.013 Challenge to Examination Results.

(1) Pursuant to Section 120.57(1), F.S., an applicant may request a formal hearing before the Division of Administrative Hearings regarding a the Division denial of credit for challenges to examination questions, under the following terms and conditions:

(2)(a) The hearing request shall ~~must~~ be filed with Commission staff ~~the Division~~ no later than 45 calendar days after the examination administration date.

(3)(b) If the applicant has elected to review the examination to submit ~~for the purpose of submitting~~ objections, pursuant to Rule 11B-30.012, F.A.C., the request for a hearing shall ~~must~~ be filed by Commission staff ~~the Division~~ no later than 30 calendar days after the date on the letter notifying the applicant of Commission staff's ~~the Division~~ evaluation decision regarding the objections.

(4)(e) The request shall ~~must~~ state all disputed facts, procedural or substantive facts of the ~~at~~ issue, and may include specific question numbers, only; if written objections were submitted to those question numbers at the time of the initial review.

Specific Authority 943.03(4), 943.12(1) FS. Law Implemented 943.173, 943.12(18) FS. History—New 1-10-94, Amended 1-2-97, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
OMCI Donna Hunt, FDLE, Criminal Justice Professionalism Program

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Program Director A. Leon Lowry, II, FDLE, Criminal Justice Professionalism Program

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: December 8, 1998

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN THE FAW: November 13, 1998

DEPARTMENT OF LAW ENFORCEMENT

Criminal Justice Standards and Training Commission

RULE CHAPTER TITLE: Indexing, Management, and Availability
RULE CHAPTER NO.: 11B-34

of Final Orders	11B-34
RULE TITLES:	RULE NOS.:
Authority	11B-34.001
Purpose	11B-34.002
Public Inspection and Duplication	11B-34.003
Final Agency Orders Required to be Indexed	11B-34.004
Listing of Final Agency Orders	11B-34.005
Numbering of Final Agency Orders	11B-34.006
Designation of Records Keeper	11B-34.008
Maintenance of Records	11B-34.009
Plan for Public Access	11B-34.010
Format for Final Agency Order	11B-34.011

PURPOSE AND EFFECT: Rule Chapter 11B-34, F.A.C., which describes the purpose and procedures pertaining to the indexing of Final Agency Orders, and is redundant, obsolete or superseded by statute, is repealed. The repeal of these rules is necessary to comport with the statutory requirements of Chapter 120, F.S.

SUMMARY: Rules 11B-34.001 through 34.002, F.A.C. describe the purpose and procedures pertaining to the indexing of Final Agency Orders. Per s. 120.53(1)(e)-(h), F.S., these procedures will be included in the Department's Policy and Procedure's Manual. Rules 11B-34.002 through 34.011, F.A.C., are redundant, obsolete or superseded by statute, and are repealed.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: None.

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

SPECIFIC AUTHORITY: 120.53(1), 943.03(4) FS.

LAW IMPLEMENTED: 120.53 FS.

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

TIME AND DATE: 1:15 p.m., Monday, May 3, 1999

PLACE: Florida Department of Law Enforcement, 2331 Phillips Road, Conference Room, 3rd Floor, Quad C, Tallahassee, Florida

NOTICE UNDER THE AMERICANS WITH DISABILITIES ACT: Persons needing an accommodation to participate in any proceeding should call (850)410-7900 (voice) or (850)656-9597 (TDD), at least five working days before such proceeding.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Joe White, Program Area Legal Advisor, Florida Department of Law Enforcement, 2331 Phillips Road, Tallahassee, Florida 32308

THE FULL TEXT OF THE PROPOSED RULES IS:

11B-34.001 Authority.

Specific Authority 120.533 FS. Law Implemented 120.53(2)-(4) FS. History–New 12-13-92, Repealed.

11B-34.002 Purpose.

Specific Authority 120.533 FS. Law Implemented 120.53(2)-(4) FS. History–New 12-13-92, Repealed.

11B-34.003 Public Inspection and Duplication.

Specific Authority 120.533 FS. Law Implemented 120.53(2)(a)(1)-(5) FS. History–New 12-13-92, Repealed.

11B-34.004 Final Agency Orders Required to be Indexed.

Specific Authority 120.533 FS. Law Implemented 120.53(2)(a)(3),(d) FS. History–New 12-13-92, Repealed.

11B-34.005 Listing of Final Agency Orders.

Specific Authority 120.53 FS. Law Implemented 120.53(2)(a)4. FS. History–New 12-13-92, Repealed.

11B-34.006 Numbering of Final Agency Orders.

Specific Authority 120.533(1)(f) FS. Law Implemented 120.53(2)-(4) FS. History–New 12-13-92, Repealed.

11B-34.008 Designation of Records Keeper.

Specific Authority 120.533(1) FS. Law Implemented 120.53(4) FS. History–New 12-13-92, Repealed.

11B-34.009 Maintenance of Records.

Specific Authority 120.533(1)(j) FS. Law Implemented 119.041(2) FS. History–New 12-13-92, Repealed.

11B-34.010 Plan for Public Access.

Specific Authority 120.533(1)(j) FS. Law Implemented 120.53(2) FS. History–New 12-13-92, Repealed.

11B-34.011 Format for Final Agency Order.

Specific Authority 120.533(1)(b),(i),(j) FS. Law Implemented 120.53(2) FS. History–New 12-13-92, Repealed.

NAME OF PERSON ORIGINATING PROPOSED RULE: Joe White, Program Area Legal Advisor, Florida Department of Law Enforcement

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Michael A. Ramage, General Counsel, Florida Department of Law Enforcement

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: On December 8, 1998, the Governor and Cabinet approved the Department’s request to publish this notice of proposed rulemaking

DEPARTMENT OF LAW ENFORCEMENT

Criminal Justice Standards and Training Commission

RULE CHAPTER TITLE:	RULE CHAPTER NO.:
Training Programs	11B-35
RULE TITLES:	RULE NOS.:
General Training Programs and Requirements and Specifications	11B-35.001
Basic Recruit Training Programs; Law Enforcement, Correctional, and Correctional Probation	11B-35.002
Basic Recruit Training Programs; Student to Instructor Ratios and Minimum Requirements	11B-35.0021
Basic Recruit Training Programs; Student Performance in Comprehensive Examination or Examinations	11B-35.0022
Basic Recruit Training Programs; Student Transfer	11B-35.0023
Basic Recruit Training Programs; Student Performance in High-Liability Proficiency, Knowledge, Skills, and Abilities	11B-35.0024
Basic Recruit Training Programs; Law Enforcement and Correctional Auxiliary Training Program	11B-35.003
Basic Recruit Training Programs; Cross-Over Training for Law Enforcement, Correctional, and Correctional Probation Officers	11B-35.004
Career Development Training Program	11B-35.005
Advanced Training Program	11B-35.006
Specialized Training Program	11B-35.007
Officer Certification Examination Qualification Course Requirements	11B-35.008
Criminal Justice Training School Requirements for Administration and Security of Examinations	11B-35.0085

Exemption from Basic Recruit Training for Out-of-State or Federal Officers; Definitions and Applicability 11B-35.009

Exemption from Basic Recruit Training for Out-of-State or Federal Officers; Policy and Exemption Application Procedures 11B-35.010

PURPOSE AND EFFECT: The purpose and effect of the proposed rule revisions are to add and correct statutory and rule references; to comply with statutory language in Section 943.10, F.S.; to comply with Section 943.10, F.S., regarding correct name cites; to comply with 1998 Legislation amending Section 943.09, F.S., changing the name of the "Division of Criminal Justice Standards and Training," to the "Criminal Justice Professionalism Program," and to comply with 1998 Legislation amending Section 943.10(12), F.S., changing the reference of "Division" to "Program." Pursuant to Section 943.09, F.S., program staff are also Commission staff who support the Commission, therefore the reference to "Division" has been changed in Rule Chapter 11B-35 to "Commission staff"; to reconstruct sentences for clarification of existing rule language; to incorporate grammatical revisions; to clarify which courses record maintenance is required for, and to revise the records to be included; to specify Basic Recruit Training Courses for the Comprehensive Examination or Examinations and reference the amended rule number; to require the school, where a student attended the majority of courses, to submit a CJSTC-67 Training Report form; to remove the requirement that an auxiliary officer work in the direct supervision of a full-time or part-time officer; to remove the hour requirement for high-liability training for an auxiliary officer; to revise course names and number of hours for course completion; to recognize an individual's previous completion of training courses, to require completion of only the high-liability proficiency skills demonstrations an individual has not previously taken in a basic recruit training course; to revise the minimum course hours effective July 1, 1998; Pursuant to Senate Bill 1688, the Department of Education shall use the uniform hours, as agreed upon, for the basis for state funding reimbursement to the vocational schools and community colleges that deliver Commission basic recruit training courses; to amend course titles; to update the Hostage Negotiations and Traffic Homicide Investigations Advanced Training Courses; to amend the titles of Rule 11B-35.008, F.A.C.; to revise the titles of all rule names containing a slash in the name; to make changes pursuant to 1998 Legislative revisions to Section 943.256, F.S., concerning Criminal Justice Selection Centers; to correct the Medical First Responder's course name; to allow federal and out-of-state officers who have completed Basic Recruit Training, but have not been certified in Florida, to activate and become certified in Florida by completing the Review Course in the applicable discipline in lieu of completing the full Basic Recruit Training Program; to add language and a new paragraph regarding the authenticity

of documents submitted to the employing agency; and to add language regarding verification of an applicant's completion of training.

SUMMARY: Rule Chapter 11B-35, F.A.C., is being revised to incorporate housekeeping revisions, training requirements and specifications; revised course hours for basic recruit training for law enforcement, correctional, and correctional probation; revise rule language for clarification and to implement new policy for the following rule topics: Basic Recruit Training Programs for student performance regarding the Comprehensive Examination or Examinations; Basic Recruit Training Programs regarding student transfer; Basic Recruit Training Programs for law enforcement and the Correctional Auxiliary Training Program; Basic Recruit Training Programs for cross-over training for law enforcement, correctional and correctional probation officers; Advanced Training Program; Officer Certification Examination Qualification Course; and exemption from basic recruit training for out-of-state or federal officers.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: None.

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

SPECIFIC AUTHORITY: 943.03(4), 943.12(1), 943.14(3) FS.
LAW IMPLEMENTED: 943.12(4)-(5), 943.131(2), 943.1395(3), 943.14(3), 943.17, 943.17(1)(a)-(c), 943.173, 943.175 FS.

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

TIME AND DATE: 5:00 p.m., May 3, 1999

PLACE: 2331 Phillips Road, Elevator Conference Room, Quad C, 3rd Floor, Tallahassee, Florida 32308-1489

NOTICE UNDER THE AMERICANS WITH DISABILITIES ACTS: Please contact Donna Hunt, Florida Department of Law Enforcement, Criminal Justice Professionalism Program, 2331 Phillips Road, Tallahassee, Florida 32308-1489.

Pursuant with the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this program, please advise the Department at least 2 weeks prior to the workshop by contacting Donna Hunt at TDD#: (850)656-9597.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Donna Hunt, Florida Department of Law Enforcement, Criminal Justice Professionalism Program, 2331 Phillips Road, Tallahassee, Florida 32308-1489, (850)410-8615

THE FULL TEXT OF THE PROPOSED RULES IS:

11B-35.001 General Training Programs; Requirements and Specifications.

(1) Basic Recruit, Career Development, Advanced, and Specialized Training Programs established or approved by the Criminal Justice Standards and Training Commission are intended to provide job-related training to law enforcement, correctional, corrections, and correctional probation officers, and the training programs are:

(a) Programs that provide for the acquisition of employment skills necessary for officer certification; and

(b) Programs that maintain officer certification, enhance officer knowledge, skills and abilities, and ~~to~~ assist in an officer's promotion to a higher rank.

(2) Except for Florida 4-year accredited colleges or universities that teach Commission-approved Correctional Probation Courses, and are those officers exempt pursuant to Section 943.14(7)(a), F.S., only training schools institutions or agencies certified by the Commission are authorized to teach Commission-approved training courses.

(3) Instructors and lecturers who teach Commission-approved ~~utilized in the~~ Basic Recruit Training Program, Career Development Training Program, Advanced Training Program, and Specialized Training Programs, shall be certified by the Commission required to have Commission certification pursuant to Rule Chapter 11B-20, F.A.C.

(4) Commission-approved Basic Recruit, Career Development, Advanced, and Specialized Training Programs training programs shall be made available to the following:

(a) Students who enroll in a Commission-approved ~~the~~ Basic Recruit Training Program ~~and intend~~ to become certified officers of state, county, or municipal law enforcement ~~and/~~ or correctional agencies.

(b) Students who enroll in a Commission-approved ~~within the~~ Career Development Training Program, Advanced ~~or~~ Training Program, and Specialized Training Program, and are certified officers of state, county, or municipal law enforcement and correctional agencies.

(c) Individuals Persons employed or appointed by an employing agency, who are not officers, or, as specified by the Commission, other professional employees in the criminal justice system, shall be considered support personnel and are eligible to attend Commission-approved Career Development, Advanced, and Specialized Training Programs on a space available basis.

(d) The training center director ~~shall~~ must provide and make available to each student, the Basic Recruit Training Curriculum for each of the Commission-approved Basic Recruit Training Courses applicable to the student's enrollment. This material is to be provided prior to, or during the time that the student is enrolled in a given course.

(5) Training curricula and delivery requirements shall be maintained for all Commission-approved Basic Recruit Training Courses as follows:

(a) All Basic Recruit Training Courses contained within a Commission-approved ~~the~~ Basic Recruit Training Program, and their respective delivery requirements, are available to interested and affected individuals persons. Copies of the course curricula are maintained within the Criminal Justice Professionalism Program at the Department of Education and the Division of Criminal Justice Standards and Training; and

(b) All Career and Advanced Training Courses maintained within a ~~the~~ Career Development Training Program and the Advanced Training Program, are available to interested and affected individuals persons. Copies are maintained within the Criminal Justice Professionalism Program Division of Criminal Justice Standards and Training.

(6) Commission-approved ~~t~~ Training Program ~~r~~ Reporting Requirements for ~~t~~ Training Center ~~d~~ Directors are as follows:

(a) The training center director, or designee, shall maintain on file at the Commission-certified criminal justice training school, schedules, and a list of instructors for Commission-approved Basic Recruit, Advanced, and Specialized Training Courses. a copy of the schedule and list of instructors on file at the training school.

(b) The training center director, or designee, shall determine the beginning and ending dates of each Commission-approved Basic Recruit Training Course.

(c) The training center director, or designee, shall forward a completed Training Report form, CJSTC-67, revised February 18, 1998, effective November 1996, hereby incorporated by reference, to the Criminal Justice Professionalism Program, Bureau of Standards, following the completion of a course. Effective September 1, 1998, the information on a CJSTC-67 form shall be required to be electronically transmitted via the Commission's Automated Training Management System (ATMS2). Commission staff shall ~~The Division will~~ maintain student training files and verify ~~verifying~~ all completed training courses.

(d) The training center director, or designee, shall ensure that ~~all~~ records for all Commission-approved Basic Recruit, Advanced, and Specialized Training ~~Training~~ Courses are maintained within the Commission-certified criminal justice training school. Each course funded by the Criminal Justice Standards and Training Trust Fund, shall be subject to audit by Commission staff. In addition, audits will be completed on each course. Such records shall include:

1. The names of all attending students.
2. Grades.
3. Test scores and test materials.
4. Course content.

5. A list of Commission-certified criminal justice training instructors, or instructors exempt from general instructor certification pursuant to Rule 11B-20.001(3)(a-e) Instructor certifications.

6. Attendance records.

7. Course outlines or schedules. Course outlines and/or schedules and any other pertinent information.

8. Training Report form CJSTC-67.

9. Radar Operator Performance Report form CJSTC-8, July 1, 1995, hereby incorporated by reference.

10. Laser Operator Performance Report form CJSTC-9, July 1, 1995, hereby incorporated by reference.

(7) Attendance: A student shall not be considered to have successfully completed a Commission-approved training course, from any session of such course, if an unexcused absence has been documented in the student course file. Class attendance requirements for students:

(a) Each student shall be required to attend all sessions of any training course in which he/she is enrolled.

(b) Each student shall be required to attend all sessions of any training course in which he/she is enrolled.

(c) No student shall be considered to have successfully completed a training course if he/she has any unexcused absences.

(d) If a student has any unexcused absences, the student must re-take that training course.

(8) Attendance Records Requirements:

(a) The training center director, or designee, shall must maintain accurate daily attendance records for each Commission-approved training course.

(b) The training center director has the authority to excuse student absences and approve appropriate course make-up work. An independent study assignment may not alone constitute appropriate course make-up work.

(c) The training center director shall must maintain documentation, in class files that, which specifies the reason for any excused student absence(s). Any make-up work required of a student as the result of an excused absence, shall be documented pursuant to the Criminal Justice Standards and Training Commission Policies and Procedures Manual.

(d) This policy does not supersede any stricter course attendance requirements established by a Commission-certified criminal justice the training school or Local Regional Training Council.

(9) Florida 4-year accredited colleges and universities that have been approved by the Commission to offer the Correctional Probation Officer Basic Recruit Training Program shall must:

(a) Report to the Commission when that a student has successfully completed the Commission-approved curriculum objectives for the Correctional Probation Officer Basic Recruit Training Program.

(b) Provide to the student a Certificate of Completion that indicates certificate indicating successful completion of the Commission-approved Correctional Probation Officer Basic Recruit Training Program; and-

(c) The Commission-certified criminal justice training school(s) providing the Correctional Probation Officer High-Liability training skills, as defined in Rule 11B-35.0024, F.A.C., and pursuant to Section 943.14(7)(a), F.S., shall provide a certificate of successful completion to the student, and provide a Training Report form, CJSTC-67, to the Commission.

(10) All forms and the Criminal Justice Standards and Training Commission Policies and Procedures Mmanual referenced in this rule chapter may be obtained by contacting the Florida Department of Law Enforcement, Criminal Justice Professionalism Program area, Division of Criminal Justice Standards and Training, Post Office Box 1489, Tallahassee, Florida 32302, Attention: Director's Office, Forms and/or Manual Liaison.

Specific Authority 943.03(4), 943.12(1) FS. Law Implemented 943.17 FS. History-New 12-13-92, Amended 8-7-94, 1-2-97, _____.

11B-35.002 Basic Recruit Training Programs; / Law Enforcement, Correctional, Corrections and Correctional Probation.

(1) There is established by the Criminal Justice Standards and Training Commission, the Basic Recruit Training Programs, which are listed as specified in the Criminal Justice Standards and Training Commission Policies and Procedures Mmanual, revised January 1999, effective November 1996, hereby incorporated by reference. These pPrograms are developed for the purpose of provide providing the minimum required employment skills necessary for officer certification, pursuant to Section 943.10(1), (2), (3), F.S.

(2) Officer Certification,:

(a) The Criminal Justice Standards and Training Commission shall approve officer certification pursuant to Section 943.1395(2), F.S.;

(b) A student enrolled in a Commission-approved Basic Recruit Training Program shall must successfully complete all Commission-required Basic Recruit Training Courses for the discipline in which the student is seeking certification.

(c) Effective July 1, 1993, all individuals attending persons entering into a Basic Recruit Training Program, and applying for an equivalency-of training, or activating a previously issued officer certification, shall must successfully pass the State Commission-approved Officer Certification Examination for the that discipline in which the individual has applied. The Criminal Justice Standards and Training Commission recognizes the importance of skill retention in law enforcement, correctional, and correctional probation officers, eorrections, therefore to be eligible to sit for the State Officer

Certification Examination, the individual shall applicant must comply with the prerequisites required stated in Rule 11B-30.006, F.A.C.

(3) Basic Recruit Training Program course requirements are as follows:

(a) Each Commission-certified criminal justice All training schools that offers offering a Commission-approved Basic Recruit Training Program, shall provide must include all Commission-required Basic Recruit Training Courses included in such training program. required by that discipline for certification. A Commission-certified criminal justice [Training schools complying in compliance with this requirement may also offer any combination of ~~the~~ Basic Recruit Training Courses, based upon agency need and student remediation.

(b) The training center director, or designee, is responsible for ensuring the instruction and content of all Commission-required Basic Recruit Training Courses.

(c) For each Commission-approved Basic Recruit Training Course, a student shall must pass a comprehensive examination, or examinations.

(d) Only successful completion of Commission-required Basic Recruit Training Courses, within each discipline, shall will determine a student's eligibility to sit for the State Officer Certification Examination in a respective discipline,;

~~(e) Commission Basic Recruit Training Courses may include additional course content approved by the Local Regional Training Council. However, additional content beyond that required by the Commission, cannot exceed twenty percent (20%) of the total course curriculum. If the added content exceeds twenty (20%) percent of the total course curriculum, the training school shall create a new course containing only the added content.~~

~~(e)(f) Institutional sequencing of Commission-approved Basic Recruit Training Courses shall be determined by Commission-certified criminal justice training schools in conjunction with their Regional Training Councils.~~

(4) Basic Recruit Training Programs. The Commission-approved curricula for ~~the~~ courses in the Commission-approved Basic Recruit Training Programs, shall be on file in the Criminal Justice Professionalism Program Division of Criminal Justice Standards and Training. Effective February 4, 1999, such programs shall include the following courses: January 1, 1993, the programs/courses include:

(a) Law Enforcement Basic Recruit Training Program		Minimum Hours
Criminal Justice Legal 1	CJD _760	<u>46.0</u> 34.0
Criminal Justice Legal 2	CJD _761	<u>48.0</u> 41.5
Criminal Justice Communications	CJD _762	<u>56.0</u> 41.0
Interpersonal Skills 1	CJD _763	<u>66.0</u> 31.0
*Criminal Justice Defensive Tactics	CJD _704	<u>106.0</u> 66.0
<u>*Includes the 38-hour Preparation for Defensive Tactics Course, effective 7/1/98</u>		
Criminal Justice Weapons	CJD _705	<u>64.0</u> 56.0
Medical First Responder (Options: CJT _362 or EMS _ 1059)	CJD _254	<u>48.0</u> 42.0

Law Enforcement Legal 3	CJD _730	<u>32.0</u> 30.0
Law Enforcement Patrol	CJD _731	<u>64.0</u> 32.5
Law Enforcement Traffic	CJD _732	<u>46.0</u> 45.0
Vehicle Operations	CJD _723	<u>32.0</u> 43.0
Law Enforcement Investigations	CJD _734	<u>64.0</u> 58.0
TOTAL		<u>672.0</u> 520.0

(b) ~~Correctional Corrections~~ Basic Recruit Training Program

Criminal Justice Legal 1	CJD _770	<u>46.0</u> 39.0
Criminal Justice Legal 2	CJD _771	<u>22.0</u> 13.0
Criminal Justice Communications	CJD _772	<u>42.0</u> 36.0
Interpersonal Skills 1	CJD _773	<u>62.0</u> 35.0
*Criminal Justice Defensive Tactics	CJD _704	<u>106.0</u> 66.0
<u>*Includes the 38-hour Preparation for Defensive Tactics Course, effective 7/1/98</u>		
Criminal Justice Weapons	CJD _705	<u>64.0</u> 56.0
Medical First Responder (Options: CJT _362 or EMS _ 1059)	CJD _254	<u>48.0</u> 42.0
Interpersonal Skills 2	CJD _750	<u>50.0</u> 46.0
Emergency Preparedness	CJD _741	<u>26.0</u> 21.0
Correctional Operations	CJD _752	<u>64.0</u> 57.0
TOTAL		<u>530.0</u> 411.0

(c) Combination Recruit Training Program

Criminal Justice Legal 1	CJD _710	<u>54.0</u> 46.0
Criminal Justice Legal 2	CJD _711	<u>52.0</u> 44.5
Criminal Justice Communications	CJD _712	<u>62.0</u> 45.0
Interpersonal Skills 1	CJD _713	<u>66.0</u> 45.0
*Criminal Justice Defensive Tactics	CJD _704	<u>106.0</u> 66.0
<u>*Includes the 38-hour Preparation for Defensive Tactics Course, effective 7/1/98</u>		
Criminal Justice Weapons	CJD _705	<u>64.0</u> 56.0
Medical First Responder (Options: CJT _362 or EMS _ 1059)	CJD _254	<u>48.0</u> 42.0
Law Enforcement Legal 3	CJD _730	<u>32.0</u> 30.0
Law Enforcement Patrol	CJD _731	<u>64.0</u> 32.5
Law Enforcement Traffic	CJD _732	<u>46.0</u> 45.0
Vehicle Operations	CJD _723	<u>32.0</u> 43.0
Law Enforcement Investigations	CJD _734	<u>64.0</u> 58.0
Interpersonal Skills 2	CJD _750	<u>50.0</u> 46.0
Emergency Preparedness	CJD _741	<u>26.0</u> 21.0
Correctional Operations	CJD _752	<u>64.0</u> 57.0
TOTAL		<u>830.0</u> 677.0

(d) Associates of Science Criminal Justice Combination Academy Track College Level Training Program

Criminal Justice Legal 1	CJD _700	<u>54.0</u> 46.0
Criminal Justice Legal 2	CJD _701	<u>53.0</u> 44.5
Criminal Justice Communications	CJD _702	<u>62.0</u> 45.0
Interpersonal Skills 1	CJD _703	<u>66.0</u> 45.0
*Criminal Justice Defensive Tactics	CJD _704	<u>106.0</u> 66.0
<u>*Includes the 38-hour Preparation for Defensive Tactics Course, effective 7/1/98</u>		
Criminal Justice Weapons	CJD _705	<u>64.0</u> 56.0
Medical First Responder (Options: CJT _362 or EMS _ 1059)	CJD _254	<u>48.0</u> 42.0
Law Enforcement Legal 3	CJD _720	<u>32.0</u> 30.0
Law Enforcement Patrol	CJD _721	<u>64.0</u> 32.5
Law Enforcement Traffic	CJD _722	<u>46.0</u> 45.0
Vehicle Operations	CJD _723	<u>32.0</u> 43.0
Law Enforcement Investigations	CJD _724	<u>64.0</u> 58.0
Interpersonal Skills 2	CJD _740	<u>50.0</u> 46.0
Emergency Preparedness	CJD _741	<u>26.0</u> 21.0
Correctional Operations	CJD _742	<u>64.0</u> 57.0
TOTAL		<u>830.0</u> 677.0

(e) Correctional Probation Training Program

Correctional Probation Legal	CJD _790	<u>60.0</u> 59.0
Correctional Probation Operations	CJD _791	<u>16.0</u> 14.0

Correctional Probation Interpersonal Skills	CJD_792	68.0	42.0
Correctional Probation			
Communication Skills	CJD_793	70.0	66.0
Correctional Probation Supervision	CJD_794	54.0	43.0
*Criminal Justice Defensive Tactics	CJD_704	106.0	66.0
*Includes the 38-hour Preparation for Defensive Tactics Course, effective 7/1/98			
Correctional Probation Firearms	CJD_795	16.0	13.0
Medical First Responder (Options: CJT_362 or EMS_1059)	CJD_254	48.0	42.0
	TOTAL	438.0	345.0

- (f) Application-Based Law Enforcement Officer Basic Recruit Training Model Program 672.0
- (g) Application-Based Correctional Officer Basic Recruit Training Model Program 530.0
- (h) Application-Based Correctional Probation Officer Training Model Program 438.0

(5) The Commission-approved curricula for courses in the Correctional Probation Officer College-Level Training Program.

(a) Courses offered in the Correctional Probation Officer College-Level Training Program shall under this program must include the goals and objectives of the curricula Correctional Probation Program.

(b) The academic courses to be offered by Florida four-year accredited colleges and universities that, which have been approved by the Commission for to offer the Correctional Probation Officer Basic Recruit Training Program are as follows:

		Minimum Hours
Survey of the Criminal Justice System	CCJ_3020	3.0
American Corrections System	CCJ_4360	3.0
Correctional Administration	CCJ_4315	3.0
Intervention Techniques and Strategies	CCJ_4340	4315 3.0
Alternative to Incarceration Internship	CCJ_4331	3.0
<u>Correctional Law</u>	<u>CCJ_4281</u>	<u>3.0</u>
<u>Internship</u>	<u>CCJ_4940</u>	<u>3.0</u>

(c) The High-Liability Training Courses required as part of the Correctional Probation Officer College-Level Training Program, shall ~~must~~ be administered through a Commission-certified criminal justice training school, and consist of the following courses:

Criminal Justice Defensive Tactics	CJD_704	106.0	66.0
Correctional Probation Firearms	CJD_795	16.0	13.0
Medical First Responder (Options: CJT 362 or EMS_1059)	CJD_254	48.0	42.0

Specific Authority 943.03(4), 943.12(1) FS. Law Implemented 943.17(1)(a) FS. History--New 12-13-92, Amended 1-10-94, 8-7-94, 1-2-97,_____.

11B-35.0021 Basic Recruit Training Programs; Student to / Instructor Ratios and Minimum Requirements.

Student to instructor ratios for a Commission-approved Basic Recruit Training Program are as follows:

(1) For instruction of criminal justice weapons, no more than six (6) students for each Commission-certified firearm instructor conducting live firearm training.

(2) For instruction of vehicle operations, at least one (1) Commission-certified driving instructor for each vehicle actively engaged in training on a driving range.

(3) For instruction of defensive tactics, no more than eight (8) students for each Commission-certified defensive tactics instructor while actively engaged in defensive tactics training or a performance evaluation.

(4) For instruction of criminal justice weapons and vehicle operations, one rangemaster, who is not included in student to instructor ratio requirements to supervise all range activity during training. Student to instructor ratios for a Basic Recruit Training Program are as follows: No more than six (6) students for each certified firearms instructor will be allowed for firearms training; At least one (1) certified driving instructor for each training vehicle, actively engaged on a driving range, is required for law enforcement driving training; Both firearms and driving training require a Rangemaster to supervise all range training; Rangemasters are not included in the ratio of students to instructor; and No more than eight (8) students, for each certified defensive tactics instructor, will be allowed while actively engaged in defensive tactics training and defensive tactics performance evaluation.

Specific Authority 943.03(4), 943.12(1), 943.14(3) FS. Law Implemented 943.12(5), 943.14(3) FS. History--New 12-13-92, Amended 1-2-97,_____.

11B-35.0022 Basic Recruit Training Programs; / Student Performance in Comprehensive Examination or Examinations.

(1) To successfully complete a any Commission-approved required Basic Recruit Training Course, other than a High-Liability Training Course, pursuant to 11B-35.0024, F.A.C., a student shall ~~must~~ achieve a score of at least 80 percent on the course's comprehensive examination or examinations, which is intended to measure the student's acquisition of knowledge, skills, and abilities, and is exclusive of qualification in the Commission-required high liability proficiency skills. To successfully complete an Application-Based Training Model, pursuant to Rule 11B-35.002(4)(f), (4)(g), or (4)(h), F.A.C., a student shall, in addition to passing the comprehensive examination or examinations, demonstrate knowledge, skills, and abilities in all assessments included within the curriculum.

(2)(+) The training center director, or designee, is responsible for the development, maintenance, and administration of the comprehensive examination or examinations for each of the Commission-approved Basic Recruit Training Courses. The training center director may develop, maintain, and administer additional academic tests for any such courses, of the Basic Recruit Training Courses, and is not limited to only the utilization of the comprehensive examination; or examinations. Commission-certified criminal justice training schools shall maintain all academy basic recruit

training course examinations in compliance with the administration, confidentiality, and security requirements, pursuant to Rule 11B-35.0085(2), (3), 11B-30.0045(3), F.A.C.

(3)(2) Training center directors may administer only one re-examination for each of the comprehensive examination or examinations for Commission-approved Basic Recruit Training Courses, if the training center director determines that one of the following conditions exists:

- (a) Technical difficulties with the test's administration.
- (b) A Condition of the student adversely impacts the impacting student's ability to pass the test.
- (c) The testing Testing instrument is shown to be invalid.

(4)(3) Each Commission-certified criminal justice training school shall must develop its own re-examination policy; that which documents the justification for re-examination and is approved by the Regional Training Council. Such The training school shall must maintain its re-examination policy on file and make it available for Commission and student review.

(5)(4) The training center director shall must approve all re-examinations and maintain appropriate documentation on file for Commission review.

(6)(5) A student may petition the training center director to request consideration for a re-examination.

(6) To pass a re-examination, a student must achieve a score of at least 80 percent unless otherwise specified by rule or policy.

(7) If a student does not successfully pass either the comprehensive examination; or examinations, or if necessary, its re-examination, the student shall will be deemed to have failed that particular Bbasic Rrecruit Ttraining Ccourse.

Specific Authority 943.03(4), 943.12(1) FS. Law Implemented 943.12(4), 943.17 FS. History--New 12-13-92, Amended 8-7-94, 1-2-97, _____.

11B-35.0023 Basic Recruit Training Programs; / Student Transfer.

(1) The Commission-approved Basic Recruit Training Programs shall be offered only at a Commission-certified criminal justice training schools certified by the Criminal Justice Standards and Training Commission for the respective discipline.

(2) A student Students enrolled in a Commission-approved Basic Recruit Training Program may transfer Commission-approved Basic Recruit Training Courses that have been successfully completed at one Commission-certified criminal justice training school, to another Commission-certified criminal justice training school, if the student has exited the previous training school in "good standing," which is defined in paragraph (5)(4) of this rule section. In addition, the training school where the student has successfully completed the Basic Recruit Training Program, shall be responsible for submitting the Training Report form, CJSTC-67, to the Division. This does not preclude an

employing agency from requiring any additional training it deems appropriate, regardless of the student's prior training or experience.

(3) Both the transferring student and the receiving training school shall must request the transferring training school to complete and submit the appropriate student records. Upon receipt of such request, the transferring training school is responsible for submitting the transferring student's records to the receiving training school.

(4) When a student has successfully completed courses included in a Commission-approved Basic Recruit Training Program at two or more Commission-certified criminal justice training schools, and has met all requirements for completion of such training program, the training school where the student has successfully completed the greatest number of courses in that program, shall, upon receipt of the student records from the other training school(s), submit a Training Report form CJSTC-67 to Commission staff. The training school submitting the Training Report form CJSTC-67, may require the student to demonstrate proficiency in any High-Liability Training Course, pursuant to Rule 11B-35.0024(1), F.A.C. The training school submitting the Training Report form CJSTC-67, shall provide to the student written evidence of the student's successful completion of the Basic Recruit Training Program.

(5)(4) Each Commission-certified criminal justice The training school shall must establish criteria that specify the conditions that which constitute leaving a program in "good standing." For this purpose, "good standing" is defined as a student being eligible to continue at the previous Commission-certified criminal justice training school without any special considerations.

(6)(5) Nothing in this section shall be construed to prevent a Commission-certified criminal justice training school from admitting a student for the limited purpose of completing a course(s) required for completion of a Commission-approved Bbasic Rrecruit Ttraining Program ecourse at another training school where in which the student is enrolled.

Specific Authority 943.03(4), 943.12(1) FS. Law Implemented 943.17 FS. History--New 12-13-92, Amended 1-2-97, _____.

11B-35.0024 Basic Recruit Training Programs; / Student Performance in High-Liability Proficiency, Knowledge, Skills, and Abilities.

(1) Students enrolled in a Commission-approved Basic Recruit Training Program shall qualify; through demonstration and written examination or examinations, in the Commission-required high-liability proficiency, knowledge, skills, and abilities, for a the respective disciplines. The Commission-required designated High-Liability Training Courses are as follows:

<u>Course Number:</u>	<u>Course Name:</u>
(a) CJD_704 Defensive	*Criminal Justice Tactics
(b) CJD_705	Criminal Justice Weapons
(c) CJD_254 or EMS_1059 or CJT_362	<u>Medical</u> First Responder
(d) CJD_723	Vehicle Operations

*Includes the 38-hour Preparation for Defensive Tactics course, effective 7/1/98

(2) Each Commission-certified criminal justice training schools shall establish written policies and procedures that provide remedial training and the opportunity for only one (1) requalification for each of the four (4) Commission-required High-Liability Training Courses. Individuals who have failed to successfully demonstrate proficiency, knowledge, skills, and abilities, in a the High-Liability Training Course, shall areas, will be deemed to have failed the High-Liability Training Course after their second unsuccessful demonstration attempt to qualify.

(3) Proficiency skills and minimum student performance requirements have been established for each High-Liability Training Course. All performance requirements are available to interested and affected persons, and may be obtained by contacting Commission staff at the Florida Department of Law Enforcement, Criminal Justice Professionalism Program. A Commission representative shall make available for inspection, documentation related to performance requirements. Proficiency skills for High-Liability Training Courses and a student's minimum performance requirements have been established. All performance requirements are available to interested and affected persons, and copies of the performance requirements are maintained at the Division of Criminal Justice Standards and Training and at all Commission-certified training schools. Documentation shall be made available for inspection upon request by a Commission representative.

(4) Each Commission-certified criminal justice training schools shall maintain documentation of proficiency demonstration on the following Commission-approved high-liability performance checklist check-list forms:

- (a) Firearms Basic Recruit Performance Evaluation; form CJSTC-4, January 1, 1997, hereby incorporated by reference.
- (b) First Responder to Medical Emergencies Basic Recruit Performance Evaluation; form CJSTC-5, August 1, 1993, hereby incorporated by reference.
- (c) Defensive Tactics Basic Recruit Performance Evaluation; form CJSTC-6, November 18, 1998, hereby incorporated by reference.
- (d) Law Enforcement Driving Basic Recruit Performance Evaluation form CJSTC-7, August 1, 1983, hereby incorporated by reference. ~~Vehicle Operation;~~
- (e) Firearms Chemical Agent Exposure Training Evaluation Form CJSTC-4a, January 22, 1998, (Optional – is not a mandated evaluation form), hereby incorporated by reference.

(e) ~~The forms referenced in subparagraphs (a)-(d) of this rule, have been incorporated by reference, effective November 1996.~~

(5) This policy does not supersede any stricter requalification requirement established by a Commission-certified criminal justice ~~the~~ training school or Local Regional Training Council.

Specific Authority 943.03(4), 943.12(1) FS. Law Implemented 943.12(4), 943.17 FS. History—New 2-17-93, Amended 1-2-97, _____.

11B-35.003 Basic Recruit Training Programs; ~~Law Enforcement and Correctional Corrections~~ Auxiliary Training Program.

(1) Law Enforcement and Correctional Auxiliary Basic Recruit Training Programs ~~Commission-approved auxiliary training programs in law enforcement and corrections are created~~ provided to train individuals persons who are applicants for employment or appointment by criminal justice agencies, with or without compensation, to assist or aid a full-time or part-time officers; ~~who works under the direct supervision of a full-time or part-time officer, who, while under the direct supervision of a full-time or part-time officer,~~ has full arrest authority.

(2) For certification as an auxiliary officer, an individual shall meet the requirements outlined in Section 943.13, F.A.C., successfully complete the Auxiliary Officer Prerequisite Course, and complete the following applicable high-liability proficiency skills in a Commission-approved Basic Recruit Training Program for which certification is being sought:

	<u>Total Hours</u>
(a) <u>Criminal Justice Weapons</u>	<u>64.0</u>
(b) <u>*Criminal Justice Defensive Tactics</u>	<u>106.0</u>
(c) <u>Vehicle Operations</u>	<u>32.0</u>

*Includes the 38-hour Preparation for Defensive Tactics course, effective 7/1/98.

(3) High-Liability Training Courses shall be taught by a Commission-certified instructor, whether taught at an academy or agency, pursuant to the Criminal Justice Standards and Training Commission Policies and Procedures Manual.

(4) A Commission-certified criminal justice training school shall submit a Training Report form CJSTC-67 to Commission staff upon an individual's completion of the Law Enforcement or Correctional Auxiliary Officer Prerequisite Course. In addition, the training school or agency shall document a student's successful completion of the applicable high-liability proficiency skills, pursuant to the Criminal Justice Standards and Training Commission Policies and Procedures Manual.

(5)(2) The Basic Recruit Training Programs include:

Minimum Hours

(a) Law Enforcement Auxiliary Officer Prerequisite Course, effective January 1, 1997:

TOPIC AREAS:

Administration	4
<u>Community Interaction</u> Basic and Criminal Law for Law Enforcement Officers	<u>6</u> 8
<u>Introduction to Basic Law</u> Crime Investigation	<u>24</u> 4
<u>Post Crime Considerations</u> Patrol Procedures	6
<u>Introduction to Traffic</u> Police Community Relations	<u>5</u> 6
<u>Field activities</u> Traffic Control	<u>12</u> 8
<u>Medical First Responder</u> Juvenile Procedures	<u>48</u> 4
<u>Proficiency Skills</u>	60
TOTAL HOURS	<u>102</u> 97

(b) Correctional Auxiliary Officer Prerequisite Course, effective January 1, 1997:

TOPIC AREAS:

Administration	<u>1</u> 3
<u>Legal</u> Introduction to the Criminal Justice System	<u>24</u> 2
<u>Report Writing</u> Criminal Corrections Laws, Rules, Basic Law and Legal Procedures	<u>4</u> 8
<u>Safety Issues</u> Operational Procedures	<u>4</u> 12
<u>Interpersonal Skills</u> Human Skills	<u>5</u> 11
<u>Security Procedures and Inmate Supervision</u>	
<u>Proficiency Skills</u>	<u>4</u> 61
<u>Equipment</u>	<u>2</u>
<u>Facility Movement</u>	4
<u>Correctional Operation and Intake Procedures</u>	<u>1</u>
<u>Inmate Property</u>	<u>2</u>
<u>Search Procedures</u>	<u>3</u>
<u>Medical First Responder</u>	<u>48</u>
TOTAL HOURS	<u>102</u> 97

*Effective January 1, 1997, the number of hours required for the delivery of high-liability training in vehicle operations, criminal justice weapons, and criminal justice defensive tactics was removed. All objectives in the Commission curricula must be successfully completed by the student.

Specific Authority 943.03(4), 943.12(1) FS. Law Implemented 943.17(1)(a) FS. History—New 12-13-92, Amended 1-2-97, _____.

11B-35.004 Basic Recruit Training Programs; ~~Cross-Over Training for Law Enforcement, Correctionals, and Correctional Probation Officers.~~

(1) The Commission recognizes the lateral movement of individuals between criminal justice disciplines. In an effort to provide ease of movement, and to reduce duplication of instructional content, the Commission has established Cross-Over Training Programs. Individuals entering Commission-approved Cross-Over Training Programs shall comply must be in compliance with Section 943.1395(3), F.S., and Rule 11B-27.002(2), F.A.C. Each program recognizes the

individual's previous completion of training courses, and only the high-liability proficiency skills demonstration in a Commission-approved Basic Recruit Training Program for which the individual has not previously taken in a Commission-approved Basic Recruit Training Course.

(2) The Cross-Over Training Program ~~shall~~ Curricula will require the individual to successfully complete only the required training courses in the discipline in which cross-over training is being sought, and successfully completion of the high-liability training requirements pursuant to as referenced in Rule 11B-35.0024, F.A.C.

(3) Effective July 1, 1998, April 30, 1993, the Cross-Over Training Programs Courses include the following courses:

<u>Course Name:</u>	<u>Course #:</u>	<u>Minimum Hours</u>
(a) Cross-Over Law Enforcement to Corrections Program:		
1. Cross-Over Corrections	CJD _780	<u>16.0</u> 13.0
2. Interpersonal Skills 2	CJD _750	<u>50.0</u> 46.0
3. Emergency Preparedness	CJD _741	<u>26.0</u> 21.0
4. Correctional Operations	CJD _752	<u>64.0</u> 57.0
TOTAL		<u>156.0</u> 137.0
(b) Cross-Over Corrections to Law Enforcement Program:		
1. Cross-Over Law Enforcement	CJD _781	<u>48.0</u> 30.0
2. Law Enforcement Legal 3	CJD _730	<u>32.0</u> 30.0
3. Law Enforcement Patrol	CJD _731	<u>64.0</u> 32.5
4. Law Enforcement Traffic	CJD _732	<u>46.0</u> 45.0
5. Vehicle Operations	CJD _723	<u>32.0</u> 43.0
6. Law Enforcement Investigations	CJD _734	<u>64.0</u> 58.0
TOTAL		<u>286.0</u> 238.5
(c) Cross-Over Law Enforcement to Correctional Probation Program:		
1. <u>Cross-Over</u> Law Enforcement	CJD _735	66.5
Cross-Over to Correctional Probation 1		
2. <u>Cross-Over</u> Law Enforcement	CJD _736	67.5
Cross-Over to Correctional Probation 2		
3. Correctional Probation Operations	CJD _791	<u>16.0</u> 14.0
TOTAL		<u>150.0</u> 148.0
(d) Cross-Over Correctional Probation to Law Enforcement Program		
Correctional Probation Legal:		
1. <u>Cross-Over</u> Correctional Probation	CJD _796	<u>46.0</u> 45.5
Legal <u>Cross-Over</u> to Law Enforcement		
2. <u>Cross-Over</u> Correctional Probation	CJD _797	<u>64.0</u> 47.5
Cross-Over to Law Enforcement		
3. Law Enforcement Patrol	CJD _731	<u>64.0</u> 32.5
4. Law Enforcement Traffic	CJD _732	<u>46.0</u> 45.0
5. Vehicle Operations	CJD _723	<u>32.0</u> 43.0
6. Law Enforcement Investigations	CJD _734	<u>64.0</u> 58.0
7. Criminal Justice Weapons	CJD _705	<u>64.0</u> 56.0
TOTAL		<u>380.0</u> 327.5
(e) Cross-Over Corrections to Correctional Probation Program:		
1. <u>Cross-Over</u> Correctional Legal	CJD _774	<u>30.0</u> 25.0
Cross-Over to Correctional Probation		
2. <u>Cross-Over</u> Correctional Cross-Over to	CJD _775	<u>26.0</u> 20.0
Correctional Probation		
3. Correctional Probation Supervision	CJD _794	<u>70.0</u> 43.0
4. Correctional Probation	CJD _793	<u>54.0</u> 66.0
Communication Skills		
TOTAL		<u>180.0</u> 154.0
(f) Cross-Over Correctional Probation to Corrections Program:		
1. <u>Cross-Over</u> Correctional Probation	CJD _798	<u>50.0</u> 44.0
Cross-Over to Corrections 1		
2. <u>Cross-Over</u> Correctional Probation	CJD _799	<u>36.0</u> 30.5
Cross-Over to Corrections 2		

3. Emergency Preparedness	CJD _741	26.0 21.0
4. Correctional Operations	CJD _752	64.0 57.0
5. Criminal Justice Weapons	CJD _ 705	64.0
	TOTAL	240.0 152.5

Specific Authority 943.03(4), 943.12(1) FS. Law Implemented 943.17(1)(a) FS. History—New 12-13-92, Amended 9-5-93, 1-2-97,_____.

11B-35.005 Career Development Training Program.

There is established by the Criminal Justice Standards and Training Commission a program of Career Development Training Courses, which shall be limited to ~~those~~ training courses related to promotion to a higher rank or position.

Specific Authority 943.03(4), 943.12(1) FS. Law Implemented 943.17(1)(c) FS. History—New 12-13-92, Amended 1-2-97,_____.

11B-35.006 Advanced Training Program.

(1) There is established by the Criminal Justice Standards and Training Commission an Advanced Training Program, which shall be limited to ~~those~~ training courses that enhance an officer's knowledge, skills, and abilities for the job the officer performs. The training courses within this program shall include ~~those~~ specified training courses that ~~which~~ the Commission shall develop, design, implement, maintain, evaluate, and revise, or ~~those~~ other specified training courses that ~~which~~ are offered by Commission-certified criminal justice training schools; which have been approved by the Commission, and are taught by Commission-certified training instructors.

(2) The methodology to assess the relevancy of Advanced Training Courses, shall be an analytical process whereby selected job incumbents are surveyed to determine that the course content is directed to the performance of tasks actually accomplished in the subject matter area, pursuant to Section 943.17, F.S. This methodology shall culminate with review and approval by the Commission.

(3) Advanced Training Courses shall include ~~cover~~ one major topic, shall and must be at least 40 hours long, may be used by the officer to satisfy mandatory retraining requirements, which are eligible for salary incentive payments when delivered through a Commission-certified criminal justice training school, and may be used to meet agency in-service training requirements.

(4) The following is a complete list of Commission-approved Advanced Training Courses:

Course Number	Course Name	Hours
006	Line Supervision	80 hours
007	Middle Management	80 hours
011	Developing and Maintaining a Sound Organization	40 hours
012	Planning the Effective Use of Financial Resources	40 hours
013	Building and Maintaining a Sound Behavioral Climate	40 hours
016	Narcotics Identification and Investigation	40 hours
019	Criminal Law	40 hours
020	Case Preparation and Court Presentation	40 hours
032	Special Tactical Problems	40 hours
033	Sex Crimes Investigation	40 hours

036	Injury and Death Investigation	40 hours
039	Traffic Homicide Investigation	40 hours
047	Interviews and Interrogations	40 hours
050	Stress Awareness and Resolution	40 hours
051	Field Training Officer	40 hours
053	Crisis Intervention	40 hours
054	Organized Crime	40 hours
055	RADAR Operators Training Course <u>for Law Enforcement Officers</u>	40 hours
057	Discipline and Special Confinement Techniques	40 hours
058	Youthful Offender Program	40 hours
068	Advanced Report Writing and Review	40 hours
072	Fire Fighting <u>for Correctional Officers</u>	40 hours
073	Human and Community Relations	40 hours
074	Drug Abuse Awareness and Education	40 hours
077	Underwater Police Science and Technology	80 hours
080	Computer Applications in Criminal Justice	40 hours
085	Emergency Preparedness for State Correctional <u>Officers Facilities</u>	40 hours
087	Advanced Traffic Accident Investigations	80 hours
088	Traffic Accident Reconstruction	80 hours
090	School Resource Officer	40 hours
091	Domestic Intervention	40 hours
093	Hostage Negotiations	40 hours
094	Drug Abuse Resistance Education (D.A.R.E.) FDLE instructed only	80 hours
095	Laser <u>Speed Measurement Operators Training Course for Law Enforcement Officers</u>	40 hours
096	Drug Abuse Resistance Education (D.A.R.E.)	40 hours
094 & 097	Drug Abuse Resistance Education (D.A.R.E.), (for mandatory retraining) with 097 for salary incentive	40 hours
098	<u>Traffic Homicide Investigation Course*</u>	80 hours

*The previous Traffic Homicide Investigation course number 039 became inactive effective July 1, 1998.

(5) Course number 094, Drug Abuse Resistance Education (D.A.R.E), may be offered only through the certified state D.A.R.E training center. The Florida certified state D.A.R.E training center is the Florida Criminal Justice Executive Institute located within the, Florida Department of Law Enforcement. D.A.R.E course numbers are: Course #094 (80 hours), or #094 split with #097 (40 hours) for salary incentive, and #096 (40 hours) for mandatory retraining.

(6) Only officers and support personnel, who have written approval from their respective agency head or designee, may attend Commission-approved Advanced Training Courses. Advanced Training Courses may only be attended by officers and support personnel who have written approval from their respective agency head or designee. Applicants shall submit evidence of their agency head's approval in a format established and agreed upon by the Local Regional Training Council and Commission-certified criminal justice training school.

(7) To develop a Commission-approved Advanced Training Course, a criminal justice agency or Commission-certified criminal justice training school shall ~~must~~ follow course approval procedures outlined in the Criminal Justice Standards and Training Commission Policies and Procedures Manual, Commission's Policies and Procedures manual, which shall and include the following:

- (a) Foreword.
- (b) Course Outline.
- (c) Course Narrative.
- (d) Course Goals and Objectives.
- (e) Assessment Instrument ~~and~~ Examination.
- (f) Bibliography and Reference Materials.
- (g) Instructor Manual.

(8) To successfully complete a Commission-approved Advanced Training Course, a student shall comply with student attendance, performance, and course documentation requirements, pursuant with the Criminal Justice Standards and Training Commission Policies and Procedures Manual.

(9)(8) Criminal Justice Standards and Training Trust Fund monies may be expended ~~utilized~~ to ~~conduct~~ present Commission-approved Advanced Training Courses. Commission requirements for use of trust fund monies shall be expended ~~apply~~ pursuant to the requirements of Rule Chapter 11B-18, F.A.C.

Specific Authority 943.03(4), 943.12(1) FS. Law Implemented 943.17(1)(b) FS. History—New 12-13-92, Amended 1-10-94, 1-2-97, _____.

11B-35.007 Specialized Training Program.

(1) The Specialized Training Program has been designed to ~~use~~ ~~utilized~~ Commission-established categories, topics, and objectives that encompass subject matter pertinent to training within the criminal justice field. Training courses are to be developed using a “menu” approach to fulfill local training needs.

(2) Officers shall have successfully completed a Commission-approved Basic Recruit Training Program to enroll in a course developed from any of the following Commission-established categories for a Specialized Training Program ~~are~~:

- (a) Communication Skills.
- (b) Crime Prevention.
- (c) Health.
- (d) High-Liability.
- (e) Investigations.
- (f) Legal Issues.
- (g) Management ~~and~~ Supervision.
- (h) Science and Technology.
- (i) Tactical Policing.
- (j) Inmate Supervision and Control.

(3) To develop a Commission-approved Specialized Training Course, a Commission-certified criminal justice training school shall ~~must~~ follow procedures pursuant to established by the Division outlined in the Commission’s Criminal Justice Standards and Training Commission Policies and Procedures ~~M~~manual. The number of hours for the instruction of a training course shall be based upon local needs, and such courses shall ~~the Specialized Training Courses must~~ be a minimum of four (4) hours long, excluding those training

courses ~~that~~ ~~which~~ require a specific number of hours for certification, pursuant to ~~outlined in~~ the Criminal Justice Standards and Training Commission’s Policies and Procedures ~~M~~manual.

(4) Successfully completed Commission-approved Specialized Training Courses may be credited toward an officer’s mandatory retraining requirement.

(5) To successfully complete a Commission-approved the Specialized Training Course, a student shall ~~must~~ comply with student attendance, ~~and~~ performance, and course documentation requirements pursuant to the Criminal Justice Standards and Training Commission Policies and Procedures ~~M~~Manual and ~~with~~ this rule section.

(6) The Commission shall ~~will~~ review and approve or / disapprove, on an individual basis, Specialized Training Courses ~~required~~ that do not comply with this rule section. ~~The p~~Procedures and forms for approval or disapproval may be found ~~are~~ ~~outlined in~~ the Criminal Justice Standards and Training Commission’s Policies and Procedures ~~M~~manual.

(7) Criminal Justice Standards and Training Trust Funds may be expended ~~for~~ to conduct presentation of Commission-approved Specialized Training Courses. Commission requirements for use of trust fund monies shall be expended pursuant to the requirements of ~~apply, and are outlined in~~ Rule Chapter 11B-18, F.A.C. Completion of a Commission-approved Specialized Training Course shall be documented by completing a Specialized Training Documentation form CJSTC-16, and when applicable, a Specialized Training Documentation Supplemental form CJSTC-16A, July 1, 1989, hereby incorporated by reference.

Specific Authority 943.03(4), 943.12(1) FS. Law Implemented 943.175 FS. History—New 12-13-92, Amended 8-7-94, 1-2-97, _____.

11B-35.008 Officer Certification Examination Qualification Course Requirements.

(1) Individuals ~~Applicants~~ applying for certification ~~who~~ that are exempt, pursuant to Section 943.131(2), F.S., and Rule ~~11B-35.010, F.A.C.~~, from completing a Commission-approved Basic Recruit Training Program, pursuant to Section 943.131(2), F.S., and Rule 11B-35.010, F.A.C., or individuals ~~persons~~ applying for re-activation of a certification ~~who have~~ which has become inactive pursuant to as described in Section 943.1395(3), F.S., and Rule 11B-27.0026(1), F.A.C., are required to ~~take and~~ successfully complete one of the following training courses that relates to the applicable discipline for which the individual person is applying:

<u>Course Title</u>	<u>Course Number</u>
(a) Law Enforcement <u>Officer Certification Examination</u>	<u>210</u>

Qualification ~~Review~~ Course:

TOPIC AREAS:

- 1. Medical First Responder ~~or equivalent~~.
- 2. Criminal Justice Defensive Tactics

- 3. Vehicle Operations.
- 4. Criminal Justice Weapons.
- 5. Legal.
- 6. Domestic Violence, pursuant to Section 943.171, F.S.
- 7. Interpersonal Skills Relating to Diverse Populations, pursuant to Section 943.1715, F.S.
- 8. Victims Assistance and Rights, pursuant to Section 943.172, F.S.
- 9. Protection of Archaeological Sites, pursuant to Section 943.1728, F.S.

10.6. ~~Total Minimum~~ Hours: 92 hours.

(b) Corrections Officer Certification Examination 510
Qualification Review Course:

TOPIC AREAS:

- 1. Medical First Responder ~~or equivalent.~~
- 2. Criminal Justice Defensive Tactics.
- 3. Criminal Justice Weapons.
- 4. Legal.
- 5. Interpersonal Skills Relating to Diverse Populations, pursuant to Section 943.1715, F.S.

65. ~~Total Minimum~~ Hours: 68 hours.

(c) Correctional Probation Officer CPO Certification 610
Examination Qualification Review Course:

TOPIC AREAS:

- 1. Medical First Responder ~~or equivalent.~~
- 2. Criminal Justice Defensive Tactics.
- 3. Criminal Justice Weapons.
- 4. Legal.
- 5. Interpersonal Skills Relating to Diverse Populations, pursuant to Section 943.1715, F.S.

65. ~~Total Minimum~~ Hours: 60 hours.

(2) Successful completion of ~~any~~ of the Commission-approved training courses required by set forth in this rule section, which specifically includes successful completion of the Commission-required high-liability proficiency skills pursuant to Rule 11B-35.0024, F.A.C.

(3) Completion of the Medical First Responder topic area ~~portion~~ of any qualification course listed in paragraph (1) of this rule section; does not lead to Cardio-Pulmonary Resuscitation (CPR) certification, unless that course is the full U. S. Department of Transportation First Responder Course.

(4) The provisions of Rules 11B-35.001, 11B-35.0021, 11B-35.0022, 11B-35.0023, and 11B-35.0024, F.A.C., shall be applicable to the training required set forth in this rule section.

Specific Authority 943.03(4), 943.12(1) FS. Law Implemented 943.131(2), 943.1395(3) FS. History—New 1-10-94, Amended 1-2-97, _____.

11B-35.0085 Criminal Justice Training School Requirements for Administration and Security of Examinations.

Security and confidentiality of examinations shall be maintained by authorized criminal justice training center directors in the following manner:

(1) Pursuant with Section 943.173(2), F.S., the Commission shall authorize the administration of examinations at Commission-certified criminal justice training schools. Administration of examinations shall consist of the criminal justice training center director or designee(s) retaining, proctoring, grading, and recording results of examinations.

(2) The criminal justice training center director shall ensure that the security and confidentiality of examinations are maintained, and upon request by Commission staff, shall make available examination materials for inspection by Commission staff.

(3) Examination materials, including the examination and individual answer forms for each Commission-approved training course, shall be retained for not less than two (2) years after the date the examination is completed.

Specific Authority 943.12(1) FS. Law Implemented 943.173) FS. History—New _____.

11B-35.009 Exemption from Basic Recruit Training for Out-of-State or Federal Officers;² Definitions and Applicability.

(1) Definitions. For the purpose of this rule section, the following definitions shall apply:

(a) “Employing agency” means any agency authorized by law to employ or appoint officers pursuant to Section 943.10(4), F.S., or a selection an assessment center pursuant to Section 943.256, F.S.

(b) “Comparable basic recruit training program in another state; or for the Federal Government,” means any successfully completed sworn officer training course or courses, irrespective of the completion date, which when viewed together; include all the primary training topics pursuant to Rule 11B-35.010, F.A.C., for the discipline in for which the applicant is seeking an ~~seeks~~ exemption, pursuant to Section 943.131(2), F.S.

(c) “Another state” means one or more of the United States; or its territories, or any combination thereof, with the exception of the State of Florida.

(d) “Federal Government” means any agency of the United States government that which employs or appoints sworn officers, a Native American Indian tribe or band that which employs or appoints sworn officers, or any branch or entity of the United States Armed Forces; or any combination thereof.

(e) “Full time” means any employed or appointed status in which a normal work week consists of 40 or more on-duty hours, exclusive of overtime, holidays, regular days off, leave, or other authorized or ordered absence from work.

(f) “Sworn officer” means:

1. ~~An individual A person~~ employed or appointed by an entity of government who is vested with the authority to bear arms and make arrests, and whose primary responsibility is the prevention and detection of crimes or the enforcement of criminal laws.

2. ~~An individual A person~~ whose primary responsibility is the supervision, protection, care, custody and control, or investigation of inmates within a correctional institution.

3. ~~An individual A person~~ whose primary responsibility is the supervised custody, surveillance, and control of assigned inmates, probationers, parolees, or community controllees within a correctional institution or within the community.

(g) "At least one year" means any time period(s), regardless of whether continuous, (which total up to 365 days during which ~~an individual a person~~ was employed or appointed as a full-time officer), excluding periods during which ~~an individual a person~~ was enrolled in, or attending, a ~~Commission-approved~~ the Basic Recruit Training Program; however, no aggregate time period shall have been accumulated over a period greater than eighteen (18) months.

(2) Applicability. These rules apply to out-of-state or federal officers who apply for exemption from a ~~Commission-approved~~ the Basic Recruit Training Program pursuant to Section 943.131(2), F.S., on or after July 1, 1993. ~~Individuals Persons~~ who applied for an exemption pursuant to Section 943.131(2), F.S., on or before June 30, 1993, and whose exemption was granted, ~~and~~ are enrolled for purposes of Section 943.1397(4), F.S., ~~shall provided, however, that they~~ complete ~~the~~ required supplemental training pursuant to Rule 11B-35.010, F.A.C., and qualify in the high-liability proficiency skills (Vehicle Operations, Criminal Justice Weapons, Criminal Justice Defensive Tactics, and Medical First Responder – for law enforcement only) on or before December 31, 1994.

Specific Authority 943.03(4), 943.12(1) FS. Law Implemented 943.131(2) FS. History–New 1-2-97, Amended.

11B-35.010 Exemption from Basic Recruit Training for Out-of-State or Federal Officers; Policy and Exemption Application Procedures.

(1) Policy. An individual who applies applicant for certification as an officer ~~and who~~ requests an exemption from completion of a Commission-approved Basic Recruit Training Program is qualified for the exemption if they meet each of the following criteria:

(a) Successful prior completion of the Florida Basic Recruit Training Program, or a comparable Bbasic Rrecruit Ttraining Pprogram comparable in content for each of the criminal justice disciplines for which they wish to claim exemption; and

(b) Prior service as a full-time sworn officer in another state or for the Federal Government for at least one year for each of the criminal justice disciplines an officer requests they wish to claim an exemption.

(2) Exemption Application Procedures.

(a) Comparable Training. An employing agency or Regional Criminal Justice Selection Center, defined in 11B-35.009(1)(a), F.A.C., on behalf of an applicant seeking exemption, ~~shall must~~ verify that the applicant has successfully completed the Florida a comparable Bbasic Rrecruit Ttraining Pprogram, or a basic recruit training program comparable in content.

(b) Comparable Basic Recruit Training. Basic-Level Training. An out-of-state or federal officer may substitute comparable basic recruit training completed at any point in the officer's career for any course or subject included in the Florida Basic Recruit Training Program, but not included in a "comparable basic recruit training program," pursuant to 11B-35.010(1)(a), F.A.C. Such comparable program may include in-service or other continuing officer training, or a combination thereof. ~~Out-of-state or federal basic-level training may have been completed at any point in an officer's career and includes, but is not limited to the Basic Recruit Training Program, in-service, officer training, or other continuing officer training, or any combination thereof.~~ The training may have been completed at one or any combination of state, local, federal, or criminal justice agencies or academies offering officer training. Commission-approved Bbasic Rrecruit or post-basic Ttraining Ccourses may be substituted for courses not included in ~~the~~ basic-level training.

(c) ~~Verification and Documentation.~~ The authenticity of documents submitted by an applicant to the employing agency, pursuant to 11B-35.009(1)(a), F.A.C., shall be corroborated by the employing agency by telephonic or written confirmation from each agency or entity from which the applicant claims comparable basic recruit training.

(d) ~~Verification.~~ An employing agency's Vverification of an applicant's successful completion of comparable basic recruit training ~~shall must~~ consist of obtaining authentic written copies of one or more of the following documents:

1. Criminal justice agency training records.
2. Criminal justice officer training academy training records.
3. Transcripts.
4. Curricula, or curricula summaries, or Certificates of Completion, or other such documents that which verify the applicant's successful completion of comparable basic recruit training in another state, or for the federal government.
5. ~~The authenticity of documents submitted to the employing agency directly by an applicant must be corroborated by the employing agency by telephonic or written confirmation from each agency or entity from which the applicant claims comparable basic recruit training.~~

(3) Primary Training Topics. The applicant's training record ~~shall must~~ reflect successful completion of training for ~~on~~ the following minimum primary training topics:

(a) For exemption from the Law Enforcement Basic Recruit Training Program:

1. Law Enforcement Legal Issues.
2. Report Writing.
3. Interpersonal Skills.
4. Criminal Justice Weapons.
5. Criminal Justice Defensive Tactics, which includes the 38-hour Preparation for Defensive Tactics course, effective 7/1/98.
6. Medical First Responder/~~First Aid~~ or Equivalent.
7. Vehicle Operations.
8. Law Enforcement Patrol.
9. Investigations.
10. Traffic Control.

(b) For exemption from the Correctional Basic Recruit Training Program:

1. Correctional Legal Issues.
2. Report Writing.
3. Interpersonal Skills.
4. Criminal Justice Weapons.
5. Criminal Justice Defensive Tactics, which includes the 38-hour Preparation for Defensive Tactics course, effective 7/1/98.
6. Medical First Responder/~~First Aid~~ or Equivalent.
7. Correctional Facility Operations.

(c) For exemption from the Correctional Probation Officer Basic Recruit Training Program:

1. Correctional Probation officer Legal Issues.
2. Report Writing.
3. Interpersonal Skills.
4. Criminal Justice Defensive Tactics, which includes the 38-hour Preparation for Defensive Tactics course, effective 7/1/98.
5. Medical First Responder/~~First Aid~~ or Equivalent.
6. Probationer Supervision.
7. Criminal Justice Weapons.

(4) Applicant Experience. An employing agency defined in 11B-35.009(1)(a), F.A.C., on behalf of an applicant seeking exemption, shall ~~must~~ verify that the applicant has served as a full-time sworn officer for one year.

(a) Employment in more than one discipline. ~~Single or Multiple Employments.~~ An applicant may qualify for exemption from a Commission-approved the Basic Recruit Training Program for more than one discipline, if the applicant has been concurrently employed as a full-time sworn officer in two or more disciplines for at least one year.

(b) Single or multiple employments. An applicant may qualify for exemption from a Commission-approved the Basic Recruit Training Program with a single or ~~an~~ aggregate of prior full-time sworn officer employments; with another state or states, or with the Federal Government, or both. However, the

aggregate periods of full-time sworn officer experience shall be at least one year, if the applicant has no more than "one year" of applicant experience, pursuant to Rule 11B-35.009(1)(g), F.A.C.; ~~T~~the applicant may not claim full-time sworn officer experience from more than two (2) previous officer employments.

~~(c)(b)~~ Verification and Documentation. The authenticity of documents submitted to the employing agency by an applicant shall be corroborated by the employing agency, by telephonic or written confirmation from each agency or entity from which the applicant claims full-time sworn experience.

~~(d)~~ Verification. An employing agency's V~~erification~~ of an applicant's successful completion of the required prior experience, by an employing agency, shall ~~must~~ consist of obtaining authentic written copies of one or more of the following:

1. Agency employee payroll records.
2. Agency employment records.
3. Employment verification by an authorized representative of the applicant's previous employer or employers.

4. Other documentation that confirms the applicant's previous experience and employment as an officer for at least one (1) year. Agency employee payroll records, agency employment records, employment verification by an authorized representative of the applicant's previous employer or employers, or other such documentation which evidences the applicant's previous experience and employment as an officer for at least one (1) year. The authenticity of documents submitted to the employing agency directly by an applicant must be corroborated by the employing agency, by telephonic or written confirmation, from each agency or entity from which the applicant claims full-time sworn experience.

~~(e)(e)~~ Submission of documentation for Commission review. Upon verification of an applicant's exemption from a Commission-approved ~~the~~ Basic Recruit Training Program pursuant to this rule section, an employing agency, defined in 11B-35.009(1)(a), F.A.C., on behalf of an applicant seeking exemption, ~~shall must~~ submit to Commission staff ~~the Division~~ a completed Equivalency-of-Training for Out-of-State and Federal Officers form; CJSTC-76, revised September 2, 1998, effective ~~November 1996~~, hereby incorporated by reference. All supporting documentation verifying the applicant's comparable basic recruit training and previous applicant experience as described in subparagraphs (a) and (b) of this rule section, shall be maintained on file by the employing agency, and submitted for review ~~to the Division~~ upon request of Commission staff ~~the Division~~. Commission staff shall ~~The Division will~~ notify the agency, in writing, of the exemption or non-exemption of the officer, within 30 working days. If the exemption is denied by Commission staff, ~~the Division~~, the applicant ~~shall will~~ be granted ~~afforded~~ a hearing pursuant to Section 120.57, F.S.

(f)(d) Other prerequisites required for to an Application for Officer Certification. Individuals Persons exempt from a Commission-approved the Basic Recruit Training Program; pursuant to this rule section, shall must comply with the training requirements in Rule 11B-35.008, F.A.C., including qualification in the Commission-required high-liability proficiency skills (Vehicle Operations, Criminal Justice Weapons, Criminal Justice Defensive Tactics and Medical First Responder – for law enforcement only), (Driving, Firearms, Defensive Tactics, and Medical First Responder for law enforcement only) pursuant to Rule 11B-35.0024, F.A.C., and thereafter, successfully pass the State Officer Certification Examination pursuant to procedures in Rule Chapter 11B-30, F.A.C., prior to application for officer certification.

Specific Authority 943.03(4), 943.12(1) FS. Law Implemented 943.131(2) FS. History–New 1-2-97, Amended _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: OMCI Donna Hunt, FDLE, Criminal Justice Professionalism Program

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Program Director A. Leon Lowry, II, FDLE, Criminal Justice Professionalism Program

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: December 8, 1998

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN THE FAW: November 13, 1998

DEPARTMENT OF LAW ENFORCEMENT

Division of Criminal Justice Information Systems

RULE CHAPTER TITLE: RULE CHAPTER NO.:

Division of Criminal Justice Information Systems 11C-1

RULE TITLES: RULE NOS.:

Division Director 11C-1.001

Division Organization 11C-1.002

Duties and Powers of Division 11C-1.003

PURPOSE AND EFFECT: The proposed repeal of rules 11C-1.001 – 11C-1.003, F.A.C. is necessary to eliminate administrative rules that are redundant, obsolete, or superseded by statute or rule and to comport with the statutory requirements of Chapter 120, F.S.

SUMMARY: The rule chapter describing the organization, powers and duties of the Division of Criminal Justice Information System is repealed.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: None.

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

SPECIFIC AUTHORITY: 943.03(4), 943.05(2)(d), 943.051(2) FS.

LAW IMPLEMENTED: 943.05, 943.051 FS.

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

TIME AND DATE: 9:30 a.m., Monday, May 3, 1999

PLACE: Florida Department of Law Enforcement, 2331 Phillips Road, Conference Room, 3rd Floor, Quad C, Tallahassee, Florida

NOTICE UNDER THE AMERICANS WITH DISABILITIES ACT: Persons needing an accommodation to participate in any proceeding should call (850)410-7900, (voice) or (850)656-9597, (TDD), at least five working days before such proceeding.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Martha Wright, Bureau Chief, User Services Bureau, Criminal Justice Information Program, Florida Department of Law Enforcement, 2331 Phillips Road, Tallahassee, Florida 32308

THE FULL TEXT OF THE PROPOSED RULES IS:

11C-1.001 Division Director.

Specific Authority 120.53, 943.03, 943.05 FS. Law Implemented 120.53, 943.05 FS. History–New 11-28-75, Formerly 11C-1.01, Repealed _____.

11C-1.002 Division Organization.

Specific Authority 120.53, 943.03, 943.05 FS. Law Implemented 20.201, 120.53, 943.05 FS. History–New 11-28-75, Formerly 11C-1.02, Amended 1-6-91, Repealed _____.

11C-1.003 Duties and Powers of Division.

Specific Authority 120.53, 943.03, 943.05 FS. Law Implemented 120.53, 943.03, 943.05 et seq. FS. Ch. 1, Title 28, U.S.C. and C.F.R. History–New 11-28-75, Formerly 11C-1.03, Repealed _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Martha Wright, Bureau Chief, User Services Bureau, Criminal Justice Information Program, Florida Department of Law Enforcement

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Donna Uzzell, Director, Criminal Justice Information Program

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: On December 8, 1998, the Governor and Cabinet approved the Department’s request to publish this notice of proposed rulemaking

DEPARTMENT OF LAW ENFORCEMENT

Division of Criminal Justice Information Systems

RULE CHAPTER TITLE: RULE CHAPTER NO.:

Special Services Bureau 11C-2

RULE TITLES: RULE NOS.:

Bureau Chief 11C-2.001

Duties of Bureau 11C-2.002

Hate Crime Report Manual 11C-2.004

PURPOSE AND EFFECT: The proposed repeal of rules 11C-2.001 – 11C-2.004, F.A.C. is necessary to eliminate administrative rules that are redundant, obsolete, or superseded by statute or rule and to comport with the statutory requirements of Chapter 120, F.S.

SUMMARY: The rule chapter describing the organization, powers and duties of the Special Services Bureau is repealed.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: None.

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

SPECIFIC AUTHORITY: 943.03(4), 943.05(2)(d), 943.051(2) FS.

LAW IMPLEMENTED: 943.05, 943.051 FS.

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

TIME AND DATE: 9:30 a.m., Monday, May 3, 1999

PLACE: Florida Department of Law Enforcement, 2331 Phillips Road, Conference Room, 3rd Floor, Quad C, Tallahassee, Florida

NOTICE UNDER THE AMERICANS WITH DISABILITIES ACT: Persons needing an accommodation to participate in any proceeding should call (850)410-7900 (voice) or (850)656-9597 (TDD), at least five working days before such proceeding.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Martha Wright, Bureau Chief, User Services Bureau, Criminal Justice Information Program, Florida Department of Law Enforcement, 2331 Phillips Road, Tallahassee, Florida 32308

THE FULL TEXT OF THE PROPOSED RULES IS:

11C-2.001 Bureau Chief.

Specific Authority 120.53, 943.03, 943.05 FS. Law Implemented 20.04, 20.05, 120.53, 943.05 FS. History–New 11-28-75, Formerly 11C-2.01, Amended 1-6-91, Repealed.

11C-2.002 Duties of Bureau.

Specific Authority 120.53, 943.03, 943.05 FS. Law Implemented 120.53, 937.022, 943.05 FS. History–New 11-28-75, Formerly 11C-2.02, Amended 1-6-91, Repealed.

11C-2.003 Uniform Crime Reports Guide Manual.

Specific Authority 943.03(4), 943.05(2) FS. Law Implemented 943.05(2), 943.1702 FS. History–Repromulgated 10-23-75, Formerly 11-2.01, Amended 7-4-79, Formerly 11C-2.003, Amended 3-11-92, Transferred to 11C-4.008.

11C-2.004 Hate Crime Report Manual.

Specific Authority 877.19 FS. Law Implemented 877.19 FS. History–New 3-11-92, Repealed.

NAME OF PERSON ORIGINATING PROPOSED RULE: Martha Wright, Bureau Chief, User Services Bureau, Criminal Justice Information Program, Florida Department of Law Enforcement

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Donna Uzzell, Director, Criminal Justice Information Program

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: On December 8, 1998, the Governor and Cabinet approved the Department’s request to publish this notice of proposed rulemaking

DEPARTMENT OF LAW ENFORCEMENT

Division of Criminal Justice Information Systems

RULE CHAPTER TITLE: Law Enforcement Data Center

RULE CHAPTER NO.: 11C-3

RULE TITLES: Supervision

RULE NOS.: 11C-3.001

Duties of the Bureau

11C-3.002

PURPOSE AND EFFECT: The proposed repeal of rules 11C-3.001-3.002, F.A.C. is necessary to eliminate administrative rules that are redundant, obsolete, or superseded by statute or rule and to comport with the statutory requirements of Chapter 120, F.S.

SUMMARY: The rule chapter describing the organization, powers and duties of the Law Enforcement Data Center is repealed.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: None.

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

SPECIFIC AUTHORITY: 943.03(4), 943.05(2)(d), 943.051(2) FS.

LAW IMPLEMENTED: 943.05, 943.051 FS.

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

TIME AND DATE: 9:30 a.m., Monday, May 3, 1999

PLACE: Florida Department of Law Enforcement, 2331 Phillips Road, Conference Room, 3rd Floor, Quad C, Tallahassee, Florida

NOTICE UNDER THE AMERICANS WITH DISABILITIES ACT: Persons needing an accommodation to participate in any proceeding should call (850)410-7900, (voice) or (850)656-9597, (TDD), at least five working days before such proceeding.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Martha Wright, Bureau Chief, User Services Bureau, Division of Criminal Justice Information Program, Florida Department of Law Enforcement, 2331 Phillips Road, Tallahassee, Florida 32308

THE FULL TEXT OF THE PROPOSED RULES IS:

11C-3.001 Supervision.

Specific Authority 120.53, 943.03, 943.05 FS. Law Implemented 20.04, 20.05, 20.201, 120.53, 943.05 FS. History--New 11-28-75, Formerly 11C-3.01, Repealed

11C-3.002 Duties of Bureau.

Specific Authority 120.53, 943.03, 943.05 FS. Law Implemented 20.201, 120.53, 943.03, 943.05 FS. History--New 11-28-75, Formerly 11C-3.02, Repealed

NAME OF PERSON ORIGINATING PROPOSED RULE: Martha Wright, Bureau Chief, User Services Bureau, Criminal Justice Information Program, Florida Department of Law Enforcement

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Donna Uzzell, Director, Criminal Justice Information Program

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: On December 8, 1998, the Governor and Cabinet approved the Department's request to publish this notice of proposed rulemaking.

DEPARTMENT OF LAW ENFORCEMENT

Division of Criminal Justice Information Systems

RULE CHAPTER TITLE: RULE CHAPTER NO.:

Criminal History Records; 11C-4
Fingerprinting and Reports
Procedural Rules

RULE TITLES:	RULE NOS.:
Bureau Chief	11C-4.001
Duties of Bureau	11C-4.002
Arrest Fingerprint Card Submission	11C-4.003
Identification Manual	11C-4.004
Deceased Notification Submission	11C-4.005
Final Disposition Reporting	11C-4.006
Orders of Executive Clemency; Disposition	11C-4.0065
Juvenile Offender Fingerprinting; Records	11C-4.007
Uniform Crime Reports Guide Manual	11C-4.008

PURPOSE AND EFFECT: Describes the operation and procedures in submitting fingerprint card(s) to the Department and updates minor language changes and statutory requirements.

SUMMARY: The amendments to Chapter 11C-4 specify the procedures for the submission and processing of fingerprint cards for all law enforcement agencies; provide for an electronic submission of fingerprint card; require a state identification number (FDLE) on each card, if known; reflect

the name changes of Crime Information Bureau to Florida Crime Information Center Bureau, Special Services Bureau to User Services Bureau and the Identification Manual to the Criminal Justice Information Procedural Manual; transfer internal FDLE procedures to the Criminal Justice Procedural Manual; and provide general guidelines for preparing Uniform Crime Reports.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: None.

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

SPECIFIC AUTHORITY: 20.54(5), 943.03(4), 943.05(2)(d), 943.051(2) FS.

LAW IMPLEMENTED: 943.05, 943.051 FS.

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

TIME AND DATE: 9:45 a.m., May 3, 1999

PLACE: Florida Department of Law Enforcement, 2331 Phillips Road, Classroom B, Tallahassee, Florida 32308

NOTICE UNDER THE AMERICANS WITH DISABILITIES ACT: Persons needing an accommodation to participate in any proceeding should call (850)410-7900 (voice) or (850)656-9597 (TDD), at least five working days before such proceeding.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Martha Wright, Bureau Chief, User Services Bureau, Division of Criminal Justice Information Program, Florida Department of Law Enforcement, 2331 Phillips Road, Tallahassee, Florida 32308

THE FULL TEXT OF THE PROPOSED RULES IS:

11C-4.001 Bureau Chief.

Specific Authority 120.53, 943.03, 943.05 FS. Law Implemented 20.04, 20.05, 20.201, 120.53, 943.03, 943.05 FS. History--New 11-28-75, Formerly 11C-4.01, Repealed

11C-4.002 Duties of Bureau.

Specific Authority 120.53, 943.03, 943.05 FS., Ch. 1, Title 28, U.S.C. and C.F.R. Law Implemented 20.201, 120.53, 943.03, 943.05 FS., Ch. 1, Title 28, U.S.C. and C.F.R. History--New 11-28-75, Amended 6-27-78, Formerly 11C-4.02, Repealed

11C-4.003 Arrest Fingerprint Card Submission.

~~In order for the Department to properly carry out those mandates in Section 943.05, Florida Statutes, pertaining to the establishment and maintenance of criminal histories based on positive identification using fingerprint comparison, (1) All law enforcement agencies of the State shall take the following~~

action on all ~~misdemeanor and felony, misdemeanor, or comparable ordinance arrests of adults and on all felony and statutorily specified misdemeanor arrests of juveniles.~~ ~~Made:~~

(a)(+) Complete at the time of arrest, as outlined in the Department's Criminal Justice Information Services Procedural Identification Manual, and on forms provided by the Department, a criminal arrest fingerprint card bearing legible quality fingerprint impressions, or an electronic equivalent. The state identification number (FDLE NO.) should be recorded on each arrest fingerprint card when the arrestee has a prior arrest record.

(b) A minor transferred for prosecution as an adult shall be fingerprinted and the notation, "Treat as an adult," shall be recorded on the criminal arrest fingerprint card by the arresting agency or clerk of certifying court.

(c)(-) Submit on a daily basis all completed fingerprint cards to: the

Florida Department of Law Enforcement
Attention: Florida Crime Information Center Bureau,
Post Office Box 1489
Tallahassee, Florida 32302-1489

using procedures as outlined under the "Single Fingerprint Card Submission Program", in the Department's Identification Manual.

(3) The only exceptions to the foregoing requirements shall be that charges regarding drunkenness and minor traffic offenses as well as charges made the subject of a field citation under statutes such as Section 901.28, Florida Statutes, need not be submitted to the Department unless, of course, the arresting agency requires a criminal history check or major charges are associated with such charges.

(4) Charges regarding "minor traffic offenses" do not include:

- (a) Driving while intoxicated;
- (b) Leaving the scene of an accident;
- (c) Fleeing or attempting to elude a police officer;
- (d) Making a false accident report;
- (e) Reckless driving;
- (f) Other offenses against the traffic and motor vehicle laws which have not been decriminalized.

Specific Authority 943.03(4), 943.05(2)(d), 943.051(2) FS. Law Implemented 943.05, 943.051 FS. History-New 6-24-76, Amended 6-27-78, Formerly 11C-4.03, Amended _____.

11C-4.004 Criminal Justice Information Services Procedural Identification Manual.

(1) The Department publishes a Criminal Justice Information Procedural an Identification Manual which is titled "Identification Manual" to assist and advise agencies in the taking and proper submission of fingerprint cards. The Identification Manual, which was revised effective October 1, 1984 and which is hereby incorporated by reference, also contains exhibits of other forms that can be used by local

agencies in submitting and requesting criminal history record information. The Manual Additional supplies of these forms can be located at <http://www.fdle.state.fl.us/index.asp> or obtained from: Florida Department of Law Enforcement, Division of Criminal Justice Information Systems, User Services Crime Information Bureau, Post Office Box 1489, Tallahassee, Florida 32302-1489.

(2) The criminal justice community shall be provided with updates and/or changes to the Identification Manual in the form of Identification Memoranda by the Department as they are needed.

Specific Authority ~~120.53(1)~~; 943.03(4)(-), 943.05(2)(d), 943.051 FS. Law Implemented ~~120.53(1)~~; 943.05, 943.051 FS. History-New 6-24-76, Amended 6-27-78, 3-18-85, Formerly 11C-4.04, Amended _____.

11C-4.005 Deceased Notification Submission.

(+) The cognizant law enforcement agency shall submit a set of fingerprints on unknown deceased individuals to the Department for the purpose of positive identification.

(2) If agencies are unable to print the deceased or furnish a previous set of prints, they shall submit to the Department of F. B. I. R-88 Death Notification form, furnishing as much information on the deceased as possible.

Specific Authority 943.03(4), 943.05(2)(d) FS. Law Implemented 943.05, 943.051 FS. History-New 6-24-76, Formerly 11C-4.05, Amended _____.

11C-4.006 Final Disposition Reporting.

(1) Law enforcement agencies, units of government responsible for jail facilities, Clerks of the Court, Department of Correction and Department of Juvenile Justice.

(1) In order for the Department to properly carry out those mandates set forth in sections 943.05, Chapter 1, Title 28, Part 20, C.F.R. and 42 U.S.C. 3371 in regard to the establishment and maintenance of current, complete, and accurate criminal histories, agencies, offices and officers in the Florida criminal justice community shall, to the maximum extent feasible, submit disposition data on criminal arrests, pretrial dispositions, trials, sentencing, confinement, parole and probation.

(2) Agencies, offices, and officers in the Florida criminal justice community operating a manual system for the submission of disposition data shall report such data in the following manner:

(a) ~~Agencies, officers, and offices shall, to the maximum extent feasible, submit disposition data to the Department for each arrest as soon as the charge(s) receive a final disposition.~~

(2) Responsibility for completing and forwarding the final disposition report to the Department for arrests prior to January 1, 1988, may reside with an arresting agency, prosecuting authority or clerk of the court, according to arrangements agreed upon by appropriate authorities within each county or municipality. For arrests occurring after January 1, 1988, the clerks of the court, within each county, are responsible for

submitting final disposition information to the Department. The responsible agency shall submit disposition data to the Department for each arrest as soon as received.

~~(3) Agencies, and Clerks of Court offices, and officers in the Florida criminal justice community possessing the technical requirements to collect, process, store, and disseminate disposition data in an automated information management system may submit disposition information to the Department in an automated format as approved by the Director of the Division of Criminal Justice Information Services Systems.~~

~~(4) Although interim transactions (i.e., turned over to, held for, pending) should be indicated in the designated area of the fingerprint card but not made the subject of a disposition report, it is essential that final disposition reports as more fully described in Chapter 1, Title 28, C.F.R. 20.3(e), be submitted within 90 days after the final disposition occurs.~~

~~(4)(5) If within 180 days after an arrest no disposition report to the Department has been made, the Department shall notify the arresting agency and request a disposition report. The arresting agency may forward the notice to the agency responsible for responding to the Department's request according to arrangements agreed upon by appropriate authorities within each county or municipality. Thereafter the responsible agency shall provide such disposition report within 30 days.~~

Specific Authority 943.03(4), 943.05(2)(d)(2)(e), 943.052 FS. Law Implemented 943.05, 943.051, 943.052 FS. History--New 6-24-76, Amended 11-12-81, Formerly 11C-4.06, Amended _____.

11C-4.0065 Orders of Executive Clemency; Disposition.

(1) Upon notice from ~~When it appears that~~ an individual who has obtained any form of executive clemency by order of the Governor and the cabinet, such clemency shall be treated by the Department as a final disposition. It shall be the responsibility of the individual to forward to the Department a copy of the order together with a fingerprint card for assurance of positive identification.

~~(2) Individuals seeking expunction of affected criminal history records based upon unconditional or full pardons must first obtain the appropriate circuit court order as provided by applicable Florida law. It shall be responsibility of the individual to forward to the Department those documents identified in subsection (1) of this section.~~

Specific Authority 943.03(4), 943.05(2)(d)(2)(e) FS. Law Implemented 943.05, 943.051 943.058 FS. History--New 11-12-81, Formerly 11C-4.065, Amended _____.

11C-4.007 Juvenile Offender Fingerprinting; Records.

Specific Authority 943.03(3), 943.05(2)(a) FS. Law Implemented 39.02(5)(a), 39.03(6), 39.09(2), 39.12, 943.05(2)(a), 943.08(1),(3),(4),(5),(7) FS. Ch. 1, Title 28, Section 20.21(d), C.F.R., 1969 AGO 277 No. 070-75. History--New 12-9-76, Formerly 11C-4.07, Repealed _____.

11C-4.008 Uniform Crime Reports Guide Manual.

All state, county, and municipal law enforcement agencies shall submit to the Florida Department of Law Enforcement uniform crime reports data setting forth their activities in connection with law enforcement as required by ~~law Section 943.05, F.S.~~ The form, general content, time, and manner of submission of such reports are set forth in the revised Florida Uniform Crime Reports Guide Manual dated January 1, ~~1996~~ 1992, incorporated herein by reference and on file with the Secretary of State.

Specific 943.03(4), 943.05(2) FS. Law Implemented 943.05(2), 943.1702 FS. History--Repromulgated 10-23-75, Formerly 11-2.01, Amended 7-4-79, 11C-2.003, Amended 3-11-92, Formerly 11C-2.003, Amended _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Martha Wright, Bureau Chief, User Services Bureau, Criminal Justice Information Program, Florida Department of Law Enforcement

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Donna Uzzell, Director, Criminal Justice Information Program

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: On December 8, 1998, the Governor and Cabinet approved the Department's request to publish this notice of proposed rulemaking

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: The proposed amendments to Rule 11C-4, F.A.C., were noticed for a Rule Development workshop in the Florida Administrative Weekly on November 13, 1998. The workshop was held on November 30, 1998. No written comments were received by this agency and no person appeared for the scheduled workshop.

DEPARTMENT OF LAW ENFORCEMENT

Division of Criminal Justice Information Systems

RULE CHAPTER TITLE: Criminal Justice Information Systems Council
 RULE CHAPTER NO.: 11C-5

The following rules are repealed:

RULE TITLES: Creation, Membership, Terms, Compensation
 Powers and Duties of Council
 RULE NOS.: 11C-5.001
 11C-5.002

PURPOSE AND EFFECT: The proposed repeal of rules 11C-5.001-5.002, F.A.C. is necessary to eliminate administrative rules that are redundant, obsolete, or superseded by statute or rule and to comport with the statutory requirements of Chapter 120 F.S.

SUMMARY: The rule chapter describing the organization, powers and duties of the Criminal Justice Information Systems Council is repealed.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: None.

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

SPECIFIC AUTHORITY: 120.53, 943.03(4), 943.05(2)(d), 943.051(2), 943.06, 943.08 FS.

LAW IMPLEMENTED: 943.05, 943.051, 943.06, 943.08 FS.

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

TIME AND DATE: 9:30 a.m., Monday, May 3, 1999

PLACE: Florida Department of Law Enforcement, 2331 Phillips Road, Conference Room, 3rd Floor, Quad C, Tallahassee, Florida

NOTICE UNDER THE AMERICANS WITH DISABILITIES ACT: Persons needing an accommodation to participate in any proceeding should call (850)410-7900 (voice) or (850)656-9597 (TDD), at least five working days before such proceeding.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Martha Wright, Bureau Chief, User Services Bureau, Division of Criminal Justice Information Program, Florida Department of Law Enforcement, 2331 Phillips Road, Tallahassee, Florida 32308

THE FULL TEXT OF THE PROPOSED RULES IS:

11C-5.001 Creation, Membership, Terms, Compensation.

Specific Authority 120.53, 943.03, 943.05 FS. Law Implemented 943.08 FS. History—New 11-28-75, Amended 11-12-81, Formerly 11C-5.01, Repealed

11C-5.002 Powers and Duties of Council.

Specific Authority 120.53, 943.03, 943.05 FS. Law Implemented 943.08 FS. History—New 11-28-75, Amended 11-12-81, Formerly 11C-5.02, Repealed

NAME OF PERSON ORIGINATING PROPOSED RULE: Martha Wright, Bureau Chief, User Services Bureau, Criminal Justice Information Program, Florida Department of Law Enforcement

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Donna Uzzell, Director, Criminal Justice Information Program

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: On December 8, 1998, the Governor and Cabinet approved the Department's request to publish this notice of proposed rulemaking

DEPARTMENT OF LAW ENFORCEMENT
Division of Criminal Justice Standards and Training
Commission

RULE CHAPTER TITLE:	RULE CHAPTER NO.:
Criminal History Records	
Dissemination Policy	11C-6
RULE TITLES:	RULE NOS.:
Posture of Department and Other Agencies	11C-6.001
Present Policy	11C-6.002
System Security and Public Access	11C-6.003
Procedures for Requesting Criminal History Records	11C-6.004
Access to Criminal Justice Information for Research or Statistical Purposes	11C-6.005
Facsimile Transmission	11C-6.006
Record Validation	11C-6.007
User Agreements	11C-6.008
Sale and Delivery of Firearms	11C-6.009

PURPOSE AND EFFECT: The purpose is to clarify system security and procedures with regard to record checks made pursuant to Chapter 119, F.S.; correct statutory references; clarify procedures for processing requests for research or statistical purposes; simplify and update billing procedures; change the processing fee to coincide with the amendments made to Chapter 790.065, F.S.

SUMMARY: The rules are amended to require that race and sex data be furnished with criminal record check information requests; to replace detailed explanations of record check results with a simpler statement; to correctly reflect statutory references; to clarify procedures for processing research and statistical requests; to comply with federal regulations under the "Brady Act"; to simplify and update billing procedures; and to revise the processing fee to comply with the amendments made to Section 790.065, F.S.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: None.

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

SPECIFIC AUTHORITY: 120.54(5), 943.03(4), 943.05(2)(d), 943.051(2) FS.

LAW IMPLEMENTED: 943.05, 943.051 FS.

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

TIME AND DATE: 10:15 a.m., May 3, 1999

PLACE: Florida Department of Law Enforcement, 2331 Phillips Road, Classroom B, Tallahassee, Florida 32308

NOTICE UNDER THE AMERICANS WITH DISABILITIES ACT: Persons needing an accommodation to participate in any proceeding should call (850)410-7900 (voice) or (850)656-9597 (TDD), at least five working days before such proceeding.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Martha Wright, Bureau Chief, User Services Bureau, Division of Criminal Justice Information Program, Florida Department of Law Enforcement, 2331 Phillips Road, Tallahassee, Florida 32308

THE FULL TEXT OF THE PROPOSED RULES IS:

11C-6.001 Posture of Department and Other Agencies.

Specific Authority ~~120.53, 943.03 FS., Ch. 1, Title 28, Part 20, C.F.R. Law Implemented 120.53, 943.05 FS., Ch. 1, Title 28, Part 20, C.F.R. History—New 6-24-76, Formerly 11C-6.01, Repealed~~.

11C-6.002 Present Policy.

Specific Authority ~~943.03, 943.05 FS. Law Implemented 943.05, 943.08 FS., Ch. 1, Title 28, Part 20, Sections 20.20, 20.21 and 20.33, C.F.R. History—New 6-24-76, Formerly 11C-6.02, Repealed~~.

11C-6.003 System Security and Public Access.

(1) In order for the Department to respond to requests for Florida criminal history information, the person or entity who wishes to review or secure such information shall provide to the Department the subject's full name, race, sex, and date of birth or approximate age. If available, the social security number, completed fingerprint card, and any other identifiers shall be provided.

(2)(+) Not all criminal history records contained in or available through the record systems of the Florida Department of Law Enforcement are available to the public under the Florida Public Records Law, (e.g., records sealed or expunged by law under Section 893.14, F.S., or derived from the Federal Bureau of Investigation criminal history record systems). And because federal and state privacy and security laws, rules and regulations preclude members of the public from personally making searches of the criminal history systems and records of the department, searches for criminal history records requested pursuant to Section 943.053, F.S., shall be conducted only by personnel of the department and those criminal justice agencies having access thereto through secure remote terminals for authorized purposes.

(3)(2) Personnel conducting such searches shall insure that copies of records made available to the public contain no information deemed confidential or exempt from public disclosure by law.

(4)(3) Depending upon whether the request for a record check is in writing or accompanied by the submission a completed properly executed fingerprint card, and upon the results of the record check, the letter of request, the document(s) fingerprint card, and/or record will be returned with a notation affixed indicating the processing result along with a copy of any criminal history record associated with the record check subject, bearing one of the following notations:

(a) "Subject identical with subject of attached Florida Department of Law Enforcement record number _____."

~~(b) "Based on the information provided, subject of attached Florida Department of Law Enforcement record number(s) _____, may be the same as your subject."~~

~~(c) "Because the information provided is inadequate, the subject inquired upon cannot be associated with any individual having a record in the criminal history record systems of the Florida Department of Law Enforcement."~~

~~(d) "Based upon the information provided, you are advised that the subject has no criminal history records in the systems of the Florida Department of Law Enforcement."~~

~~(4) Copies of records made available to the public pursuant to the Florida Public Records Law shall be prominently annotated to indicate whether the record is based upon positive identification using fingerprints and shall be signed and dated by the processing technician.~~

(5) The public is advised that criminal history record checks conducted without the use of fingerprint identification procedures are unreliable. Moreover, the record provided may be inaccurate or incomplete due to the failure of an agency to make a report or because portions of the record are sealed, have been expunged, or are otherwise unavailable except to certain law enforcement or criminal justice agencies under state or federal law.

Specific Authority ~~120.53(1), 943.03(4)(3), 943.05(2)(d), 943.053 FS. Law Implemented 119.07, 120.53(1), 943.05(2), 943.053, 943.08(3), 943.08(5), 943.08(7) FS., Ch. 1, Title 28, Section 20.21(f), C.F.R. History—New 12-9-76, Formerly 11C-6.03, Amended~~.

11C-6.004 Procedures for Requesting Criminal History Records.

(1) Requests for Florida criminal history records contained in the systems of the Florida Department of Law Enforcement are to be directed to the following address:

Florida Department of Law Enforcement
 Division of Criminal Justice Information ~~Services Systems~~
 User Services Bureau
 Post Office Box 1489
 Tallahassee, Florida 32302-1489

(2) All requests will be subject to processing in the following declining order of priorities:

(a) through (f) No change.

(3) There shall be no charge for conducting record checks under (2)(a) through (c). A processing fee of \$15 shall be charged for each subject inquired upon under subsections (2)(d) through (f) unless the Executive Director of the Department determines that conducting the record check would be in the interest of law enforcement or criminal justice or if the fee is otherwise waivable, as provided in subsection 943.053(3) F.S. However, the Department of Health and Rehabilitative Services' vendors shall be charged a fee of \$5.00 for each subject inquired upon.

~~(4) The processing fee of \$15 shall not be deemed tendered by a nongovernmental agency until actual receipt and acceptance thereof by the Department.~~

Specific Authority ~~420.53(1), 943.03(3), 943.03(4), 943.053(3), 943.05(2), 943.056 FS. Law Implemented 114.05(2), 119.07, 943.05(2), 943.053(3), 943.08(8), (12) FS. 524(b) Pub. L. 93-83, Ch. 1, Title 28, Sec. 20.21(e)(1), C.F.R., Art. V, Sec. 12(e), Art. IV, Sec. 1(a), Fla. Const. History—New 12-30-76, Amended 11-7-83, Formerly 11C-6.04, Amended 9-1-88, 4-1-93,~~

11C-6.005 Access to Criminal Justice Information for Research or Statistical Purposes.

(1) Each request of the Department of Law Enforcement for criminal justice information for research or statistical purposes shall be processed through the Director's Office of the Division of Criminal Justice Information Services Systems.

(2) All requests shall be made in writing and directed to:
 Florida Department of Law Enforcement
 Division of Criminal Justice Information Services Systems
 Director's Office
 Post Office Box 1489
 Tallahassee, Florida 32302-1489

(a) All requests shall contain the name, address, and telephone number of the applicant; a brief summary description of the project; the type of criminal justice information desired; and the intended use for the criminal justice information.

- (3) Requests shall be processed on a priority basis for:
- (a) Criminal Justice Agencies;
 - ~~(b) Other government agencies with statutory authority to conduct research or statistical projects to advance knowledge in the administration of criminal justice;~~
 - ~~(c) Noncriminal Justice Government Agencies;~~
 - ~~(d) Private entities; c~~Corporations and private individuals.

(4) ~~All The~~ requests will be evaluated by the Director of the Division of Criminal Justice Information Services Systems or the Director's his designated assistant for the feasibility of compliance complying.

(5) If criminal justice information cannot be provided to the applicant as requested, written notice will be forwarded to the applicant within 21 days after receipt of the request, explaining why it is not feasible possible.

(6) If the request can be met, written notice will be forwarded to the applicant within 21 days after receipt of the request and the applicant will be required to enter along with a systems request form and a privacy and security agreement with the Department of Law Enforcement.

~~(a) The systems request form is prepared by the Division of Criminal Justice Information Systems and is to be utilized by the applicant to describe the type of information desired from the Department's criminal justice information system.~~

~~(a)(b) The privacy and security agreement is intended prepared by the Division of Criminal Justice Information Systems and is to be utilized by the Division to assure that~~

criminal justice information disseminated for use in a research or statistical project is used only for the purpose stated in the original request.

~~(7) The privacy and security agreement and systems request form should be completed and returned to the Division of Criminal Justice Information Services Systems. The Division will complete the request as soon as practical upon receipt of the documents. At which time, the information can be obtained in person or will be forwarded to the applicant.~~

(8) Criminal justice information which has been sealed upon order of a court of competent jurisdiction will be disseminated only in accordance with applicable law.

~~(9) A processing fee shall be charged unless the Executive Director of the Department determines that the requested information would be in the interest of law enforcement or criminal justice. Each applicant requesting criminal justice information for research or statistical purposes shall be assessed a fee based on:~~

- ~~(a) Procedures as described in subsection 11C-6.004(3), F.A.C., or~~
- ~~(b) Data processing support requirements including but not limited to:~~

- ~~1. Salaries of required computer programming personnel, at the overtime rate, to develop and validate an extraction program;~~
- ~~2. Extraction time required to obtain the criminal justice information from the computer file(s) or for other special processing requirements; and~~
- ~~3. Print time required to reproduce the criminal justice information in hardcopy form.~~

Specific Authority 943.03(4), 943.05(2)(d)(e), 943.0525, 943.053(1), 943.057 FS. Law Implemented 119.07, 943.0525, 943.053, 943.057 FS. History—New 11-12-81, Formerly 11C-6.05, Amended.

11C-6.006 Facsimile Transmission.

Specific Authority 943.03(3), 943.05(2)(e) FS. Law Implemented 943.05(2)(a) FS. History—New 11-12-81, Formerly 11C-6.06, Repealed.

11C-6.007 Record Validation.

Specific Authority 943.03(3), 943.05(2)(e) FS. Law Implemented 943.05(2)(a) FS. History—New 11-12-81, Formerly 11C-6.07, Amended 6-9-87, Repealed.

11C-6.008 User Agreements.

Specific Authority 943.03(3), 943.05(2)(e) FS. Law Implemented 943.0525 FS. History—New 11-12-81, Formerly 11C-6.08, Repealed.

11C-6.009 Sale and Delivery of Firearms.

(1) For a federally licensed firearm dealer (including licensed firearm importers, licensed firearm manufacturers and licensed firearm dealers pursuant to Title 27, C.F.R., Part 178) to complete a firearm transaction to another person, other than a licensed importer, licensed manufacturer, licensed dealer or licensed collector, a United States Treasury Department, Bureau of Alcohol, Tobacco and Firearms (ATF) form ATF

F-4473[5300.9] Part 1 (4/97) (Firearms Transaction Record, effective February 1, 1994), incorporated here by reference, must be completed. These forms are available from the ATF Distribution Center, 7943 Angus Court, Springfield, Virginia 22153. The completion of the ATF F-4473[5300.9] Part 1 (4/97) form must comply with Title 27, C.F.R., Part 178, Section 178.124, and with Section 790.065, F.S.

(2) Section A of the ATF F-4473[5300.9] Part 1 (4/97) form must be completed by the potential buyer or transferee and items 9 and 10 of the ATF F-4473[5300.9] Part 1 (4/97) form must be completed by the dealer prior to contacting the Florida Department of Law Enforcement (FDLE) ~~FDLE~~. In addition to the above requirements, the ~~s~~Social ~~s~~Security ~~n~~Number of the potential buyer or transferee may be recorded in block number 10 of the ATF F-4473[5300.9] Part 1 (4/97) form along with additional types and dates of identification for any person who is not a United States citizen (i.e. utility bills or lease agreements). ~~“Number on Identification.”~~ The dealer is required to advise the potential buyer that the disclosure of his or her ~~s~~Social ~~s~~Security ~~n~~Number is voluntary, of the authority for the disclosure, and of the use to be made of the number.

(3) All federally licensed importers, licensed manufacturers, and licensed firearm dealers in Florida who intend to sell a firearm to another non-licensed person must provide dealership information to FDLE ~~the Florida Department of Law Enforcement (FDLE)~~ and obtain an identification number and a toll-free telephone number. The identification number and ~~the~~ toll-free telephone number must be used only by or for the dealer and must be used to obtain an approval number before a firearm can be transferred. The Florida Firearm Dealer Information Form (form number FDLE 40-019, effective February 1, 1991), incorporated herein by reference, may be obtained from:

Florida Department of Law Enforcement
Firearm Purchase Program
Post Office Box 1489
Tallahassee, Florida 32302-1489
Telephone Number: (850)410-8139 ~~(904)488-4761~~

~~(4) FDLE will operate the Firearm Purchase Program from 7:00 a.m. to 11:00 p.m., Eastern time, seven (7) days a week.~~

~~(4)(5) The dealer must collect an \$8.00 a \$10.00 non-refundable processing fee from the potential buyer or transferee before the processing of a criminal history record check of the state and national record systems will be accomplished. The fee will remain at \$10.00 until the program has been operational one year and dealers are notified of a change of fee.~~

~~(5)(6) Using the provided toll-free telephone number, the dealer must contact eah FDLE immediately prior to each transaction involving the transfer of one or more firearms to obtain an approval number to complete the firearm transaction.~~

The dealer will provide the dealer's identification number and all identification data of the potential buyer or transferee as contained on ATF form F-4473[5300.9] Part 1 (4/97) to FDLE.

~~(6)(7) FDLE will provide an approval, non-approval, conditional approval, or conditional non-approval number to the dealer based on the criminal history record of the potential buyer or transferee. Based on the status of the criminal history record, FDLE will provide an approval or non-approval number to the dealer during the call when possible or by return call or within the specified time frame as contained in Section 790.065, F.S. Unless compliance with the requirements of this section is excused as provided in subsection 790.065(10), F.S., if the dealer has not received an approval or non-approval number, conditional or otherwise, from FDLE within the time frame specified, the dealer must contact FDLE to inquire about the status of the request for approval, prior to completing the transaction. If a conditional non-approval number is issued, FDLE will attempt to determine the status of the criminal history record so as to respond to the dealer within the time frame contained in Section 790.065, F.S., with an approval or non-approval number. At the termination of the time period specified in Section 790.065(2)(c)(5), F.S., if such a determination is not possible, the conditional non-approval number will become a conditional approval number. If the dealer has not received an approval or non-approval number from FDLE within the time frame specified, the dealer must telephone FDLE to inquire about the status of the conditional non-approval prior to completing the transaction. The approval number is valid for a single transaction within and for a period not to exceed thirty (30) calendar days four (4) working days after receipt of the number is received. Working days are defined as Monday through Friday, excluding legal holidays. Multiple firearms may be transferred in this transaction.~~

~~(7)(8) The dealer will record the approval, non-approval, or conditional approval, or non-approval number, or pending non-approval in the top right corner of ATF form F-4473[5300.9] Part 1 (4/97). When the transaction is approved, the dealer should complete items 11 through 20 on the ATF form F-4473.~~

~~(8)(9) To any potential buyer or transferee intending to formally appeal their his non-approval, the dealer will provide a Firearm Purchase Non-Approval Appeal Form (form number FDLE 40-020, effective February 1, 1991), incorporated herein here by reference, and on file with Secretary of State, that must be completed by the dealer and the potential buyer or transferee. The potential buyer or transferee must take the form to a law enforcement agency, be fingerprinted there, and return the Non-approval Appeal form and fingerprints to FDLE within 21 calendar days. Using the procedures as described in Rule 11C-8, F.A.C., FDLE will process the formal appeal request. A supply of the appeal forms will be provided by FDLE to dealers upon request. Such requests should be directed to:~~

Florida Department of Law Enforcement
 Firearm Purchase Program
 Post Office Box 1489
 Tallahassee, Florida 32302-1489
 Telephone Number: (850)410-8139 904/488-4761

~~(9)(10)~~ Each month, FDLE will provide the dealer with an invoice of the fees due FDLE. Payment must be received by FDLE by the 1st 10th of the month following the invoice date billing period (16th of two months previous through the 15th of the previous month). Only A business or personal check, money order, or cashier's check payable to FDLE will be accepted; and the provided envelope must be used returned with the return portion of the invoice in the envelope that is provided. Checks must be in U.S. dollars only.

~~(10)(11)~~ Questions about invoices received should be directed to:

Florida Department of Law Enforcement
Office of Finance and Accounting and Budgeting
 Post Office Box 1489
 Tallahassee, Florida 32302-1489
 Telephone Number: (850)410-7156 904/487-0916

~~(11)(12)~~ Checks or money orders returned for any reason will be subject to the service fee as provided by Section 215.34 F.S. Failure to pay the amount of the check or money order plus the service fee by the date specified by FDLE a \$15 charge or 5% of value of check, whichever is greater. After 90 days from the due date, nonpayment of any portion of the required fees will result in the termination of the services provided by FDLE until all outstanding such fees are paid in full. All payments received will be applied to the oldest outstanding invoice first.

(12) An invoice for processing fees that is not paid within 10 days after the due date will result in the termination of services provided by FDLE. Services will be reactivated when all past due invoices are paid in full and payment is received by FDLE.-

(13) All records where the transfer was approved must be maintained by dealers for 20 years as required by Title 27, C.F.R., Part 178. All records where the transfer was non-approved must be kept by dealers in a secure area and kept confidential for four (4) years. Dealer ATF Form F-4473[5300.9] Part 1 (4/97) Forms where the transfer was non-approved must be made available to federal, state, county and municipal law enforcement agencies in connection with their official duties upon request during business hours or other reasonable times if the dealer has no regular business hours.

(14) All records created by FDLE to conduct the criminal history record check shall be maintained in a secure area and shall be accessible only to authorized persons. Paper documents shall be shredded and computer records shall be automatically purged and destroyed in the time frames established in Section 790.065, F.S.

(15) Dealers who sell firearms from their inventory at gun shows in Florida must obtain approval numbers from FDLE before the transactions are completed. Out-of-state dealers (at gun shows) must comply with all federal and state laws, rules and regulations when transferring a firearm in Florida.

(16) Nonpayment or delayed payment of the processing fee by the potential buyer or transferee will be resolved by the dealer and the potential buyer or transferee. Dealers will be responsible to FDLE for payment for all record checks initiated using their identification number, whether a firearm is transferred or not.

~~(17) Pawned firearms, or firearms that are placed with a dealer for sale on consignment that are claimed within 90 days by the owner of the firearms, and rental firearms~~ that are rented for a specific purpose and do not leave the premises, do not require an approval number. Firearms returned Repaired or warranty replaced for repairs firearms that are claimed by the owner of the firearms do not require an approval number. All pawned or consigned firearms require an approval number prior to transfer.

(18) Dealers are required to notify FDLE of any changes in their address, telephone number, or federal license status. Failure to do so will result in the dealer's identification number being suspended. When the correct address and telephone number can be verified, and all outstanding invoices satisfied, service can be reinstated.

(19) FDLE will provide a licensed dealer with a new identification number when the dealer believes that unauthorized use has been or may be made of that dealer's current identification number. It is the responsibility of the dealer to maintain the confidentiality of the assigned identification number and not release the toll-free telephone number.

~~(20)(19)~~ Any questions regarding these procedures for the sale and delivery of firearms or appeal of non-approval should be directed to:

Florida Department of Law Enforcement
 Firearm Purchase Program
 Post Office Box 1489
 Tallahassee, Florida 32302-1489
 Telephone Number: (850)410-8139 904/488-4761

Specific Authority 790.065, 943.03(4) FS. Law Implemented 790.065 FS., Title 18, U.S.C., Chapter 44, and Title 27, C.F.R., Part 178. History--New 6-2-91, Amended.

NAME OF PERSON ORIGINATING PROPOSED RULE:
 Martha Wright, Bureau Chief, User Services Bureau, Criminal Justice Information Program, Florida Department of Law Enforcement

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Donna Uzzell, Director, Criminal Justice Information Program

943.0585, F.S. Questions regarding the status of the review should be directed to the Expunge Section at (850)410-7870 (904)488-4762.

(5) The Department will send the subject, via certified mail, return receipt requested, a Certificate of Eligibility (form number FDLE 40-022, effective ~~September 1998~~ July 1, 1992), incorporated here by reference, if the specified criminal history record meets the requirements for expunction. If the specified criminal history record does not meet the requirements for expunction, the Department will send the subject, via certified mail, return receipt requested, a letter stating the reason for ineligibility with an explanation of appeal rights.

~~(a) If the specified criminal history record does not meet the requirements for expungement, it cannot be expunged.~~

~~(b) If the specified criminal history record is eligible for expungement, the subject may then petition the court to expunge the record. The subject must provide the court with the Certificate of Eligibility and other documents and information required by the statutes and the court.~~

~~(6) The order of the court as to an expunction of criminal history records should specify the agencies to which it applies, including this Department, and should be directed to the appropriate state attorney or the statewide prosecutor and the law enforcement agency which made the arrest and forwarded the arrest information to the Department. The court should provide the Certificate of Eligibility to the arresting agency along with the certified court order.~~

~~(6)(7)~~ Upon receipt of a certified court order to expunge a criminal history record, the arresting agency shall:

(a) No change.

(b) Forward the Certificate of Eligibility, a certified copy of the court order, and a letter of transmittal to the Department. The letter of transmittal shall make specific reference to identifying information, including:

1. Name;
2. Alias/Maiden Name(s);
3. Sex;
4. Race;
5. Date of Birth;
6. Social Security Number (If Available);
7. Date of Arrest;
8. Arrest Number and Original Charges;
9. FDLE Number and FBI Number (If Known).

The letter of transmittal shall be signed by the chief law enforcement officer of the agency or the ~~his~~ authorized designee.

~~(8) The Department will not act on an order to expunge if such order does not comply with the requirements of the statutes. Upon receipt of such an order, the Department will notify the issuing court, the appropriate state attorney or~~

~~statewide prosecutor, the petitioner or his attorney, and the arresting agency of the reason for noncompliance as set forth in ss. 943.0585(3)(d), F.S.~~

~~(9) If an arrest was made in Florida solely on the basis of an alleged offense against the laws of a non-Florida jurisdiction, and if under the laws of such other jurisdiction the person arrested is entitled to and has taken the necessary steps to accomplish the expunction of the criminal history record generated from the arrest in such other jurisdiction, the Department shall honor any official request for expunction of that part of the Florida criminal history record.~~

Specific Authority 943.03(4), 943.0585(2) FS. Law Implemented 943.0585 FS. History—New 8-5-92, Amended _____.

11C-7.007 Procedures on Court-Ordered Sealings.

(1) No change.

(a) No change.

(b) A completed Application for Certification of Eligibility. The subject should complete section A of the application. The Application for Certification of Eligibility (form number FDLE 40-021, effective ~~July 1, 1992~~), incorporated here by reference, may be obtained from:

1. The Clerk of the Court, or
2. Florida Department of Law Enforcement Expunge Section Post Office Box 1489 Tallahassee, Florida 32302-1489 Telephone Number: (850)410-7870 (904)488-4762.

(c) A legible set of fingerprints recorded on an FBI Applicant Fingerprint Card (FD-258). The fingerprinting must be done by a law enforcement agency. The law enforcement agency fingerprinting the subject should place the following statement in the "Reason Fingerprinted" section on the card: "Application For Certification Of Eligibility For Sealing." The subject must pay any fees required by the law enforcement agency for providing this service. If a copy of the Applicant Fingerprint Card is needed, it may be obtained from:

1. The Clerk of the Court, or
2. Florida Department of Law Enforcement Expunge Section Post Office Box 1489 Tallahassee, Florida 32302-1489 Telephone Number: (850)410-7870 (904)488-4762.

(d) No change.

(2) The complete application packet should be mailed or delivered to Accounting and Budgeting, Florida Department of Law Enforcement, Post Office Box 1489, Tallahassee, Florida 32302-1489. The following notation should be placed on the envelope: "ATTENTION EXPUNGE SECTION."

(3) No change.

(4) If the application packet is complete, the Department will review the submitted information and the subject's criminal history record to determine if the specified record meets the requirements for sealing, which are listed in s. 943.059, F.S. Questions regarding the status of the review should be directed to the Expunge Section at (850)410-7870 (904)488-4762.

(5) The Department will send the subject, via certified mail, return receipt requested, a Certificate of Eligibility (form number FDLE 40-022, effective July 1, 1992), incorporated here by reference, if the specified criminal history record meets the requirements for sealing. If the specified criminal history record does not meet the requirements for sealing, the Department will send the subject, via certified mail, return receipt requested, a letter stating the reason for ineligibility with an explanation of appeal rights.

~~(a) If the specified criminal history record does not meet the requirements for sealing, it cannot be sealed.~~

~~(b) If the specified criminal history record is eligible for sealing, the subject may then petition the court to seal the record. The subject must provide the court with the Certificate of Eligibility and other documents and information required by the statutes and the court.~~

~~(6) The order of the court as to a sealing of criminal history records should specify the agencies to which it applies, including this Department, and should be directed to the appropriate state attorney or the statewide prosecutor and the law enforcement agency which made the arrest and forwarded the arrest information to the Department. The court should provide the Certificate of Eligibility to the arresting agency along with the certified court order.~~

~~(6)(7) Upon receipt of a certified court order to seal a criminal history record, the arresting agency shall:~~

~~(a) No change.~~

~~(b) Forward the Certificate of Eligibility, a certified copy of the court order, and a letter of transmittal to the Department. The letter of transmittal shall make specific reference to identifying information, including:~~

- ~~1. Name;~~
- ~~2. Alias/Maiden Names;~~
- ~~3. Sex;~~
- ~~4. Race;~~
- ~~5. Date of Birth;~~
- ~~6. Social Security Number (If Available);~~
- ~~7. Date of Arrest;~~
- ~~8. Arrest Number and Original Charges;~~
- ~~9. FDLE Number and FBI Number (If Known).~~

~~The letter of transmittal shall be signed by the chief law enforcement officer of the agency or the ~~his~~ authorized designee.~~

~~(8) The Department will not act on an order to seal if such order does not comply with the requirements of the statutes. Upon the receipt of such an order, the Department will notify the issuing court, the appropriate state attorney or statewide prosecutor, the petitioner or his attorney, and the arresting agency of the reason for noncompliance as set forth in ss. 943.059(3)(d), F.S.~~

~~(9) If an arrest was made in Florida solely on the basis of an alleged offense against the laws of a non-Florida jurisdiction, and if under the laws of such other jurisdiction the person arrested is entitled to and has taken the necessary steps to accomplish the sealing of the criminal history record generated from the arrest in such other jurisdiction, the Department shall honor any official request for sealing of that part of the Florida criminal history record.~~

Specific Authority 943.03(4), 943.059(2) FS. Law Implemented 943.059 FS. History—New 8-5-92, Amended _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Martha Wright, Bureau Chief, Division of Criminal Justice Information Program, Florida Department of Law Enforcement.

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Donna Uzzell, Director, Criminal Justice Information Program

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: On December 8, 1998, the Governor and Cabinet approved the Department's request to publish this notice of proposed rulemaking

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: The proposed amendments to Rule 11C-7, F.A.C., were noticed for a Rule Development workshop in the Florida Administrative Weekly on November 13, 1998. The workshop was held on November 30, 1998. No written comments were received by this agency and no person appeared for the scheduled workshop.

DEPARTMENT OF LAW ENFORCEMENT

Division of Criminal Justice Information Systems

RULE CHAPTER TITLE: Criminal History Records; Review and Correction

RULE CHAPTER NO.: 11C-8

RULE TITLE: Review Procedures

RULE NO.: 11C-8.001

PURPOSE AND EFFECT: The purpose is to update personal review procedures to include participation by criminal justice agencies and to make the process easier for the requesting individual. The effect is to afford individuals assistance in the personal review process from additional sources and to permit direct submission of requests to the Florida Department of Law Enforcement.

SUMMARY: The rule amendments allows an individual, after being fingerprinted by a local law enforcement agency, to directly submit a request to the Department of Law Enforcement for review and/or challenge of his or her state criminal history record

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: None.

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

SPECIFIC AUTHORITY: 120.54(5), 943.03(4), 943.05(2)(d), 943.051(2) FS.

LAW IMPLEMENTED: 943.05, 943.051 FS.

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

TIME AND DATE: 11:15 a.m., May 3, 1999

PLACE: Florida Department of Law Enforcement, 2331 Phillips Road, Classroom B, Tallahassee, Florida 32308

NOTICE UNDER THE AMERICANS WITH DISABILITIES ACT: Persons needing an accommodation to participate in any proceeding should call (850)410-7900, (voice) or (850)656-9597, (TDD), at least five working days before such proceeding.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Martha Wright, Bureau Chief, Division of Criminal Justice Information Program, Florida Department of Law Enforcement, 2331 Phillips Road, Tallahassee, Florida 32308

THE FULL TEXT OF THE PROPOSED RULE IS:

11C-8.001 Review Procedures.

(1) Any individual wishing to review his criminal history record must submit a request in writing to a local law enforcement agency or the Florida Department of Law Enforcement (FDLE), ~~and should specifically indicate whether a multistate (FBI/NCIC) check is desired.~~

(2) The individual must then be fingerprinted by a local law enforcement agency or by FDLE for identification purposes. The fingerprint card ~~must will~~ contain all required identifying data as outlined in the Criminal Justice Procedural Manual, and a conspicuous notation that the card is submitted in order to provide positive identification for a personal record review.

(3) The request Requests and completed fingerprint card ~~should~~ cards received by local law enforcement agencies will then be mailed by the local law enforcement agency or the individual to FDLE to the Department.

(4) The fingerprint card will be processed by FDLE the Department and returned to the submitting party with a notation affixed indicating the processing result along with a copy of any criminal history record identified with the individual. ~~if a positive fingerprint identification is established against an existing criminal history record, a single copy of the record, the submitted fingerprint card, and the original letter of request will be returned to the local law enforcement agency. If no arrest record is found in the Florida Crime Information~~

~~Center/Computerized Criminal History System, the fingerprint card and the letter of request will be so stamped on the reverse side and will be returned to the local law enforcement agency forwarding same.~~

~~(5) The Department will mail a letter to the requesting individual advising him that a copy of his criminal history record, if any, has been mailed to the local law enforcement agency.~~

~~(6) It will then be the responsibility of the individual requesting said record to personally call for such record at that local law enforcement agency. It will be the responsibility of the local law enforcement agency to determine that the person reviewing the criminal history record is the same person that was fingerprinted by that agency. A statement will be placed on each criminal history record or fingerprint card returned by the Department which states, "Released to (subject's name) Date (date released) by (releasing agency)". This statement must be completed by the local law enforcement agency that delivers the record to the individual.~~

~~(5)(7)~~ If after reviewing the his record, the individual believes feels that the record is incorrect or incomplete, it is the individual's his responsibility to contact the agency submitting that part of the record in question. It then will be the responsibility of that agency to determine the merit of the assertion, to make any and all corrections or deletions that may be required, and to notify FDLE the Department of any corrections or deletions.

~~(6)(8)~~ If, after an individual reviews his own criminal history record as authorized in Rule 11C-8.001, F.A.C., the agency and the individual are unable to resolve their differences as to what that portion of the person's record ought to contain or and if, more particularly, the agency responsible for the portion of the record in issue refuses to correct its own records or to advise FDLE the Florida Department of Law Enforcement to correct or supplement the state records in accordance with the individual's wishes, then the administrative review procedures set out in Rule 11C-8.001 paragraphs (7) and (8) below (9) or (10), as appropriate, shall be followed.

~~(7)(9)~~ If the agency responsible for the portion of the record in issue is subject to the Florida Administrative Procedure Act, Chapter 120, F.S. Florida Statutes, the individual may initiate and the agency shall submit itself to administrative adjudication and judicial review of the issue in accordance with the Act, and Section 943.056(2), F.S.

~~(8)(10)~~ If the agency responsible for the portion of the record in issue is not subject to the Florida Administrative Procedures Act, the individual shall petition the agency in writing to convene a special hearing panel for the purpose of conducting an informal hearing. Such panel shall consist of one panelist nominated by the individual, one panelist nominated by the agency and a presiding panelist mutually agreeable to the other two panelists. If within ten days after the

petition is filed no third panelist has been agreed upon or has agreed to serve, a third member of the panel will be appointed by the Executive Director, FDLE Florida Department of Law Enforcement. Thereafter:

(a) Within twenty days after the petition is filed, the agency shall make written answer to the allegations in the petition, attaching thereto copies of such official records as it deems necessary to support its refusal or to controvert the petitioner's allegations.

(b) Within thirty days after the petition is filed, the special hearing panel shall convene at a place provided by the agency and at such time as is not inconvenient to the members of the panel, the agency and the individual.

(c) The special hearing panel shall consider the petition, answer, other written documents, official records, oral arguments, and such other information or testimony as either the agency or the individual deems pertinent, material or relevant. The special hearing panel may request and the agency and individual shall provide such additional non-privileged affidavits, statements, answers to interrogatories and copies of documents and records as are necessary to the resolution of the issues.

(d) The individual shall have the burden of proving by substantial competent evidence that the criminal history record information contained in the agency's records or submitted by the agency to the FDLE Florida Department of Law Enforcement is incorrect or incomplete. However, upon failure of the agency to answer the petition, to answer the individual's interrogatories interrogatives or reasonable requests for other non-privileged written materials or copies of records, or to otherwise proceed in good faith hereunder, the burden shall shift to the agency.

(e) The special hearing panel, after consideration of all evidence and materials submitted to it and upon the agreement of at least two panelists, shall make tentative written findings of fact and conclusions of law, shall and make a tentative but specific finding as to how the individual's record ought to be corrected or supplemented, if at all, and shall certify its findings to the individual and the agency. Default and summary findings are authorized in the event either party unreasonably refuses to proceed in good faith hereunder.

(f) Within ten days of receipt of the tentative findings, the individual or agency shall serve their written exceptions upon the other party and each member of the panel. Thereafter, the panel shall reconvene for the purpose of considering only the prior record, the written exceptions, timely written responses thereto, and such additional evidence as any member of the panel may demand of either the agency or the individual. The tentative findings described in Rule 11C-8.001(8)(e)(10)(e), F.A.C., may be modified as a majority of the members of the panel may deem appropriate, and shall become the final administrative findings of fact and law. ~~If no written exceptions are filed within ten days of the party's receipt of the~~

~~tentative findings, the tentative findings shall become the final administrative findings of fact and law.~~ The special panel shall be deemed to have concluded its business when its final findings are certified to the agency, the individual, and FDLE the Florida Department of Law Enforcement. The record of proceedings hereunder shall be retained by the presiding panelist but may be copied by either party as necessary for appropriate review.

(g) A party who has been adversely affected by the findings of the special hearing panel may, within ten days of receipt of the final administrative findings of fact and law, petition the Executive Director of FDLE the Department of Law Enforcement for review of such findings. Review by the Executive Director shall be confined to the record transmitted. In the event no such petition is filed by either party, the agency and FDLE the Department of Law Enforcement shall conform their respective criminal history records in accordance with the final findings of the panel.

(h) The Executive Director, upon review of the record shall make known the his findings to the individual, the agency, and the presiding panelist in writing within thirty days after the filing of the petition for review. In the event the Executive Director is in agreement with the final findings of the special hearing panel, the Executive Director's determination ~~he~~ shall so state and may adopt said findings; however, should the Executive Director reach a contrary result, he shall state with specificity the reason therefor.

(i) Unless within ~~If~~ fifteen days after rendition of the Executive Director's final findings, either neither the agency or ~~nor~~ the individual notifies FDLE have notified the Florida Department of Law Enforcement of its filing of suit to seek judicial review, the agency and FDLE the Department shall forthwith conform their respective criminal history records in accordance with the Executive Director's findings. In the event timely notice is received that judicial review has been initiated, the records in issue shall remain unchanged pending the outcome of the judicial review.

(9)(11) Proceedings under subsection 11C-8.001(8), F.A.C., Rule 11C-8.001(10) shall be as informal as fairness and principles of due process will allow. ~~(No evidence shall be rejected or deemed inadmissible merely because it is not best evidence, is hearsay, is not in proper form, or it is not predicated or formally introduced as the rules of evidence would dictate in judicial proceedings).~~ However, the special hearing panel may disregard or discount evidence which is without credibility, materiality, pertinency, or relevancy. As the interests of justice and fairness may require, it may counsel and assist in the presentation of a more effective case by either party. The panel shall synopsize its own rulings and oral testimony before it and reduce it to writing.

Specific Authority 943.03(4)(3), 943.05(2)(d), 943.056 FS. Law Implemented 943.05, 943.056 FS. History--New 6-24-76, Amended 11-12-81, Formerly 11C-8.01, Amended _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Martha Wright, Bureau Chief, User Services Bureau, Criminal Justice Information Program, Florida Department of Law Enforcement

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Donna Uzzell, Director, Criminal Justice Information Program

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: On December 8, 1998, the Governor and Cabinet approved the Department's request to publish this notice of proposed rulemaking

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: The proposed amendments to Rule 11C-8 F.A.C. were noticed for a Rule Development workshop in the Florida Administrative Weekly on November 13, 1998

DEPARTMENT OF LAW ENFORCEMENT

Division of Criminal Justice Information Systems

RULE CHAPTER TITLE:	RULE CHAPTER NO.:
Combat Automobile Theft Decal	11C-9
RULE TITLES:	RULE NOS.:
Purpose	11C-9.001
Decal Specifications	11C-9.002
Availability	11C-9.003

PURPOSE AND EFFECT: The proposed repeal of rules 11C-9.001-9.003, F.A.C. is necessary to eliminate administrative rules that are redundant, obsolete, or superseded by statute or rule and to comport with the statutory requirements of Chapter 120, F.S.

SUMMARY: The rule chapter describes the procedures of the Combat Automobile Theft Program is repealed.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: None.

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

SPECIFIC AUTHORITY: 120.53, 943.03(4), 943.05(2)(d), 943.051(2), 316.008(6)(b) FS.

LAW IMPLEMENTED: 943.05, 943.051, 316.008(6)(b) FS.

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

TIME AND DATE: 9:30 a.m., Monday, May 3, 1999

PLACE: Florida Department of Law Enforcement, 2331 Phillips Road, Conference Room, 3rd Floor, Quad C, Tallahassee, Florida

NOTICE UNDER THE AMERICANS WITH DISABILITIES ACT: Persons needing an accommodation to participate in any proceeding should call (850)410-7900, (voice) or (850)656-9597, (TDD), at least five working days before such proceeding.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Martha Wright, Bureau Chief, User Services Bureau, Division of Criminal Justice Information Program, Florida Department of Law Enforcement, 2331 Phillips Road, Tallahassee, Florida 32308

THE FULL TEXT OF THE PROPOSED RULES IS:

11C-9.001 Purpose.

Specific Authority 20.05(5) FS. Law Implemented 316.008(6)(b) FS. History--New 10-21-93, Repealed.

11C-9.002 Decal Specifications.

Specific Authority 20.05(5) FS. Law Implemented 316.008(6)(b) FS. History--New 10-21-93, Repealed.

11C-9.003 Availability.

Specific Authority 20.05(5) FS. Law Implemented 316.008(6)(b) FS. History--New 10-21-93, Repealed.

NAME OF PERSON ORIGINATING PROPOSED RULE: Martha Wright, Bureau Chief, User Services Bureau, Criminal Justice Information Program, Florida Department of Law Enforcement

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Donna Uzzell, Director, Criminal Justice Information Program

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: On December 8, 1998, the Governor and Cabinet approved the Department's request to publish this notice of proposed rulemaking

DEPARTMENT OF LAW ENFORCEMENT

Division of Local Law Enforcement Assistance

RULE CHAPTER TITLE:	RULE CHAPTER NO.:
Division of Local Law Enforcement Assistance	11D-2
RULE TITLES:	RULE NOS.:
Division Director	11D-2.001
Organization of the Division	11D-2.002
Powers and Duties of the Division	11D-2.003

PURPOSE AND EFFECT: The proposed repeal of Rules 11D-2.001 through 11D-2.003, F.A.C., inclusive, is necessary to eliminate administrative rules that are redundant, obsolete, or superseded by statute or rule, and to comport with the statutory requirements of Chapter 120.74, Florida Statutes.

SUMMARY: The sections of Rule Chapter 11D-2, F.A.C., which describe the Division of Local Law Enforcement Assistance's organization, powers and duties are repealed.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: None.

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

SPECIFIC AUTHORITY: 943.03(4) FS.
 LAW IMPLEMENTED: 120.74 FS.
 IF REQUESTED IN WRITING WITHIN 21 DAYS OF THIS NOTICE A HEARING WILL BE HELD AT THE TIME, DATE AND PLACE SHOWN BELOW (IF NOT REQUESTED, THIS HEARING WILL NOT BE HELD):
 TIME AND DATE: 1:15 p.m., Monday, May 3, 1999
 PLACE: Florida Department of Law Enforcement, 2331 Phillips Road, Conference Room, 3rd Floor, Quad C, Tallahassee, Florida
 NOTICE UNDER THE AMERICANS WITH DISABILITIES ACT: Persons needing an accommodation to participate in any proceeding should call (850)410-7900 (voice) or (850)656-9597 (TDD), at least five working days before such proceeding.
 THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Joe White, Program Attorney for Investigations and Forensics Services, Florida Department of Law Enforcement, 2331 Phillips Road, Tallahassee, Florida 32308.

THE FULL TEXT OF THE PROPOSED RULES IS:

11D-2.001 Division Director.

Specific Authority 120.53(1)(a), 943.03(3) FS. Law Implemented 20.201(2)(b), 120.53(1)(a), 943.26 FS. History—New 4-21-87, Repealed.

11D-2.002 Organization of the Division.

Specific Authority 120.53(1)(a), 943.03(3) FS. Law Implemented 20.04, 20.05, 23.121, 120.53(1)(a), 406.02(1), 943.26, 943.355 FS. History—New 4-21-87, Amended 1-6-91, Repealed.

11D-2.003 Powers and Duties of Division.

Specific Authority 120.53(1)(a), 943.03(3) FS. Law Implemented 23.121, 406.02(1), 943.26, 943.055 FS. History—New 4-21-87, Amended 1-6-91, Repealed.

NAME OF PERSON ORIGINATING PROPOSED RULE: Joe White, Program Attorney for Investigative and Forensic Services, Florida Department of Law Enforcement
 NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Michael A. Ramage, General Counsel
 DATE PROPOSED RULE APPROVED BY AGENCY HEAD: On December 8, 1998, the Governor and Cabinet approved the Department’s request to publish this Notice of Proposed Rulemaking

DEPARTMENT OF LAW ENFORCEMENT

Division of Local Law Enforcement Assistance

RULE CHAPTER TITLE: DNA Database Collection
 RULE CHAPTER NO.: 11D-6

RULE TITLES: Definitions 11D-6.001
 Applicability 11D-6.002
 Procedure 11D-6.003

PURPOSE AND EFFECT: The proposed amendments to Rules 11D-6.001 and 11D-6.003, F.A.C., and the repeal of Rule 11D-6.002, F.A.C., eliminate administrative rules that are redundant, obsolete, or superseded by statute or rule, or provide clarification of procedures required by statutory revisions in order to comport with the requirements of Chapter 120.74, Florida Statutes.

SUMMARY: The amendments to Rule 11D-6.001 and Rule 11D-6.003, F.A.C., remove redundant references to statutory duties concerning the collection of blood samples for the DNA Database maintained by the Florida Department of Law Enforcement. Amendments to Rule 11D-6.001 clarify the definition of “blood sample” and also reflect circumstances under which blood samples are required to be submitted. Amendments to Rule 11D-6.003 clarify procedures to be followed to ensure efficient collection and submission of blood samples. Rule 11D-6.002 is repealed due to changes in statutory language.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: None.

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

SPECIFIC AUTHORITY: 943.03(4), 943.325(9)(d) FS. (Supp. 1998)

LAW IMPLEMENTED: 120.74 FS.

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

TIME AND DATE: 1:30 p.m., Monday, May 3, 1999
 PLACE: Florida Department of Law Enforcement, 2331 Phillips Road, Conference Room, 3rd Floor, Quad C, Tallahassee, Florida

NOTICE UNDER THE AMERICANS WITH DISABILITIES ACT: Persons needing an accommodation to participate in any proceeding should call (850)410-7900 (voice) or (850)656-9597 (TDD), at least five working days before such proceeding.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Joe White, Program Attorney for Investigations and Forensics Services, Florida Department of Law Enforcement, 2331 Phillips Road, Tallahassee, Florida 32308

THE FULL TEXT OF THE PROPOSED RULES IS:

11D-6.001 Definitions.

(1) "Under the direction of" shall mean with the supervision and approval of and the assumption of responsibility for.

~~(2) "Upon conviction" shall mean within a reasonable time of conviction and sentencing or disposition, but prior to the offender's release or transfer from state or county custody, as applicable.~~

~~(2)(3) "Blood sample" shall mean a specimen sample of whole blood, at least 7 cc in volume, withdrawn in a medically approved manner.~~

~~(3)(4) "Offender" shall mean a person meeting any of the criteria specified below in Section 11D-6.002, FAC ss. 943.325(1), 947.1405(7), 948.03(5)(a)8, or 948.03(10), F.S.~~

Specific Authority 943.03(4), 943.325(9)(d), ~~(7)(d)~~ FS. (Supp. 1998) Law Implemented 943.325 FS. History—New 7-4-90, Amended _____.

11D-6.002 Applicability.

Specific Authority 943.03, 943.325(7)(d) FS. Law Implemented 943.325 FS. History—New 7-4-90, Repealed _____.

11D-6.003 Procedure.

When an offender, as defined in Rule Section 11D-6.001(3), FAC, is convicted ~~of one or more of the offenses specified above at Section 11D-6.002, FAC~~, the agency person responsible by law for collection of the blood samples shall cause the blood sample to be drawn and submitted to the Department of Law Enforcement upon sentencing or disposition, but prior to the offender's release, in accordance with these procedures, determine that the offender is subject to Section 943.325, F.S. Depending upon the county in which conviction occurs and the sentence given upon conviction, primary responsibility for compliance with Section 943.325, F.S., shall rest with the Sheriff, the Officer in Charge of the county correctional facility, or the Department of Corrections. Typically, the The Sheriff or Officer in Charge of the county correctional facility will have such responsibility when the offender is sentenced to incarceration within the county correctional facility or is given a disposition, such as probation or community control, other than incarceration within a state correctional facility. The Department of Corrections will have such responsibility when the offender is sentenced to incarceration within a state correctional facility. The Department of Juvenile Justice will have such responsibility when the offender is a juvenile committed to the custody or supervision of that agency. Compliance should be accomplished in the following manner:

(1) The subject offender must be positively identified in the manner specified by the FDLE Request for DNA Investigative Support Database Entry Form (FDLE Form – DNA-1, Date February 1, 1999 and incorporated by reference) prior to taking the blood samples from such offender. ~~The~~

~~circuit court case number associated with the inmate's commitment and sentencing documentation may be used as a tracking number for this purpose.~~

(2) When positive identification of the offender is accomplished, two (2) blood samples shall be taken from the offender ~~in a medically approved manner~~ by or under the direction of a physician, registered nurse, licensed practical nurse, or duly licensed clinical laboratory technician associated with the county or state agency having custody of the offender, ~~as appropriate.~~

(3) Such samples shall be taken using only the blood sample collection kit approved and provided by the Department of Law Enforcement. Agencies may obtain additional kits from FDLE, DNA Database, P. O. Box 1489, Tallahassee, Florida 32302-1489.

(4) Prior to or immediately after the taking of the samples, the FDLE Request for DNA Investigative Support Database Entry Form (FDLE Form – DNA-1) must be completed, providing all ~~relevant~~ information requested on the form. The imprinting of the offender's left and right thumbs, by means of an inked impression, in the spaces indicated on the form shall be completed as well. Inked fingerprint impressions must be sufficiently legible for fingerprint classification and comparison purposes. Blood samples accompanied by one or more illegible inked fingerprint impressions are unacceptable for entry into the DNA Database and will be rejected by FDLE. The collecting agency must then submit a new blood sample and completed form. The person taking, or witnessing the taking, of the blood samples, ~~or such other person as may be appropriate,~~ shall certify, under oath and before a notary or a law enforcement or correctional officer, as indicated on the form, that two blood samples were in fact taken from the offender thus positively identified. Additional supplies of these forms can be obtained from: FDLE, DNA Database, P. O. Box 1489, Tallahassee, Florida 32302-1489.

(5) Collection, labeling, storage, handling, and transmittal of the blood samples so collected shall be as prescribed in the printed instructions included with each blood sample collection kit. In order to avoid sample degradation, all AH samples so collected shall be transmitted within 72 hours of collection to the Department of Law Enforcement in the manner prescribed in the such instructions. The collecting agency should forward unrefrigerated blood samples so as to assure receipt by the Department within 72 hours of shipping. Additional copies of these instructions can be obtained from: FDLE, DNA Database, P. O. Box 1489, Tallahassee, Florida 32302-1489.

~~(6) Access to and utilization of the DNA Investigative Support Database shall be restricted to criminal justice agencies as defined in Section 943.045(10), F.S.~~

Specific Authority 943.03(4), 943.325(9)(d), ~~(7)(d)~~ FS. (Supp. 1998) Law Implemented 943.325 FS. History—New 7-4-90, Amended _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Joe White, Program Attorney for Investigative and Forensic Services, Florida Department of Law Enforcement

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Michael A. Ramage, General Counsel

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: On December 8, 1998, the Governor and Cabinet approved the Department's request to publish this Notice of Proposed Rulemaking

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: The proposed amendments to Rule 11D-6.001 and 6.003, F.A.C., were noticed for a rule development workshop in the Florida Administrative Weekly on November 13, 1998

DEPARTMENT OF LAW ENFORCEMENT

Division of Criminal Investigation

RULE CHAPTER TITLE: Indexing, Management, and Availability of Final Orders

RULE CHAPTER NO.: 11E-1

RULE TITLES: Division Director 11E-1.001
 Organization of the Division 11E-1.002
 Powers and Duties of Division 11E-1.003

PURPOSE AND EFFECT: Rule Chapter 11E-1, F.A.C., which describes the organization and structure of the Division of Criminal Organization, is redundant, obsolete or superseded by statute, is repealed. The repeal of these rules is necessary to comport with the statutory requirements of Chapter 120, F.S.

SUMMARY: Rules 11E-1.001 through 1.003, F.A.C. describe the organization and structure of the Division of Criminal Organization are redundant, obsolete or superseded by statute, and are repealed.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: None.

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

SPECIFIC AUTHORITY: 120.53, 943.03(4) FS.
 LAW IMPLEMENTED: 16.56(4), 20.201, 120.53, 281.20, 943.03, 943.04 FS.

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

TIME AND DATE: 1:45 p.m., Monday, May 3, 1999
 PLACE: Florida Department of Law Enforcement, 2331 Phillips Road, Conference Room, 3rd Floor, Quad C, Tallahassee, Florida

NOTICE UNDER THE AMERICANS WITH DISABILITIES ACT: Persons needing an accommodation to participate in any proceeding should call (850)410-7900 (voice) or (850)656-9597 (TDD), at least five working days before such proceeding.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Joe White, Program Area Legal Advisor, Florida Department of Law Enforcement, 2331 Phillips Road, Tallahassee, Florida 32308

THE FULL TEXT OF THE PROPOSED RULES IS:

11E-1.001 Division Director.

Specific Authority 120.53, 943.03 FS. Law Implemented 20.201, 120.53, 943.04 FS. History--New 11-28-75, Formerly 11E-1.01, Repealed.

11E-1.002 Organization of the Division.

Specific Authority 120.53, 943.03 FS. Law Implemented 120.53, 281.20, 943.04 FS, Executive Order 75-53. History--New 11-28-75, Formerly 11E-1.02, Amended 1-6-91, Repealed.

11E-1.003 Powers and Duties of Division.

Specific Authority 120.53, 943.03 FS. Law Implemented 16.56(4), 120.53, 281.20, 943.03, 943.04 FS. History--New 11-28-75, Formerly 11E-1.03, Amended 1-6-91, Repealed.

NAME OF PERSON ORIGINATING PROPOSED RULE: Joe White, Program Area Legal Advisor, Florida Department of Law Enforcement

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Michael A. Ramage, General Counsel, Florida Department of Law Enforcement

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: On December 8, 1998, the Governor and Cabinet approved the Department's request to publish this notice of proposed rulemaking

DEPARTMENT OF LAW ENFORCEMENT

Division of Criminal Investigation

RULE CHAPTER TITLE: Regional Operations Bureaus

RULE CHAPTER NO.: 11E-6

RULE TITLES: Regional Operations Bureaus 11E-6.001
 Duties of Bureaus 11E-6.002

PURPOSE AND EFFECT: Rule Chapter 11E-6, F.A.C, which describes the organization and duties of the Regional Operations Bureaus, is redundant, obsolete or superseded by statute, is repealed. The repeal of these rules is necessary to comport with the statutory requirements of Chapter 120, F.S.

SUMMARY: Rules 11E-6.001 and 6.002, F.A.C. which describe the organization and duties of the Regional Operations Bureaus are redundant, obsolete or superseded by statute, and are repealed.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: None.

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

SPECIFIC AUTHORITY: 120.53, 943.03(4) FS.
LAW IMPLEMENTED: 20.04, 20.05, 20.201, 120.53, 281.20, 943.03, 943.04 FS.

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

TIME AND DATE: 1:45 p.m., Monday, May 3, 1999
PLACE: Florida Department of Law Enforcement, 2331 Phillips Road, Conference Room, 3rd Floor, Quad C, Tallahassee, Florida

NOTICE UNDER THE AMERICANS WITH DISABILITIES ACT: Persons needing an accommodation to participate in any proceeding should call (850)410-7900 (voice) or (850)656-9597, (TDD), at least five working days before such proceeding.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Joe White, Program Area Legal Advisor, Florida Department of Law Enforcement, 2331 Phillips Road, Tallahassee, Florida 32308

THE FULL TEXT OF THE PROPOSED RULES IS:

11E-6.001 Regional Operation Bureaus.

Specific Authority 120.53, 943.03 FS. Law Implemented 20.04, 20.05, 120.53 FS. History--New 1-6-91, Repealed.

11E-6.002 Duties of Bureaus.

Specific Authority 120.53, 943.03 FS. Law Implemented 120.53, 281.20, 943.03, 943.04 FS., Executive Order 75-53. History--New 1-6-91, Repealed.

NAME OF PERSON ORIGINATING PROPOSED RULE: Joe White, Program Area Legal Advisor, Florida Department of Law Enforcement

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Michael A. Ramage, General Counsel, Florida Department of Law Enforcement

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: On December 8, 1998, the Governor and Cabinet approved the Department's request to publish this notice of proposed rulemaking

DEPARTMENT OF LAW ENFORCEMENT

Division of Staff Services

RULE CHAPTER TITLE: Personnel Management
Bureau Chief
Duties of Bureau
RULE CHAPTER NO.: 11F-7
RULE NOS.: 11F-7.001
11F-7.002

PURPOSE AND EFFECT: The proposed repeal of Rules 11F-7.001 and 11F-7.002, F.A.C., inclusive, is necessary to eliminate administrative rules that are redundant, obsolete, or superseded by statute or rule, and to comport with the statutory requirements of Chapter 120, Florida Statutes.

SUMMARY: Pursuant to Chapter 120, Florida Statutes, housekeeping requirements Rules 11F-7.001 and 11F-7.002, F.A.C., inclusive, describing the structure and duties of the Bureau of Personnel Management, are repealed.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: None.

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

SPECIFIC AUTHORITY: 120.53(1)(a), 943.03(4) FS.
LAW IMPLEMENTED: 20.201(2)(e), 120.53, 120.53(1)(a), 943.381 FS.

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

TIME AND DATE: 1:45 p.m., Monday, May 3, 1999
PLACE: Florida Department of Law Enforcement, 2331 Phillips Road, Conference Room, 3rd Floor, Quad C, Tallahassee, Florida

NOTICE UNDER THE AMERICANS WITH DISABILITIES ACT: Persons needing an accommodation to participate in any proceeding should call (850)410-7900 (voice) or (850)656-9597 (TDD), at least five working days before such proceeding.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Fern Rosenwasser, Assistant General Counsel, Office of General Counsel, Florida Department of Law Enforcement, 2331 Phillips Road, Tallahassee, Florida 32308

THE FULL TEXT OF THE PROPOSED RULES IS:

11F-7.001 Bureau Chief.

Specific Authority 120.53(1)(a), 943.03(4) FS. Law Implemented 20.04, 20.05, 20.201(2)(e), 120.53(1)(a), 943.381 FS. History—New 1-6-91, Repealed

11F-7.002 Duties of the Bureau.

Specific Authority 120.53(1)(a), 943.03(4) FS. Law Implemented 20.201(2)(e), 120.53(1)(a), 943.381 FS. History—New 1-6-91, Repealed

NAME OF PERSON ORIGINATING PROPOSED RULE: Fern Rosenwasser, Assistant General Counsel, Florida Department of Law Enforcement

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Michael A. Ramage, General Counsel, Florida Department of Law Enforcement

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: On December 8, 1998, the Governor and Cabinet approved the Department’s request to publish this notice of proposed rulemaking

DEPARTMENT OF LAW ENFORCEMENT

Division of Staff Services

RULE CHAPTER TITLE: FDLE Academy
RULE CHAPTER NO.: 11F-8
RULE TITLES: Bureau Chief
RULE NOS.: 11F-8.001
Duties of the Academy 11F-8.002

PURPOSE AND EFFECT: The proposed repeal of Rules 11F-8.001 and 11F-8.002, F.A.C., inclusive, is necessary to eliminate administrative rules that are redundant, obsolete, or superseded by statute or rule, and to comport with the statutory requirements of Chapter 120, Florida Statutes.

SUMMARY: Pursuant to Chapter 120, Florida Statutes, housekeeping requirements Rules 11F-8.001 and 11F-8.002, F.A.C., inclusive, describing the structure and duties of the FDLE Academy, are repealed.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: None.

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

SPECIFIC AUTHORITY: 120.53(1)(a), 943.03(4) FS.

LAW IMPLEMENTED: 20.201(2)(e), 120.53, 120.53(1)(a), 943.381 FS.

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

TIME AND DATE: 1:45 p.m., Monday, May 3, 1999

PLACE: Florida Department of Law Enforcement, 2331 Phillips Road, Conference Room, 3rd Floor, Quad C, Tallahassee, Florida

NOTICE UNDER THE AMERICANS WITH DISABILITIES ACT: Persons needing an accommodation to participate in any proceeding should call (850)410-7900 (voice) or (850)656-9597 (TDD), at least five working days before such proceeding.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Fern Rosenwasser, Assistant General Counsel, Office of General Counsel, Florida Department of Law Enforcement, 2331 Phillips Road, Tallahassee, Florida 32308

THE FULL TEXT OF THE PROPOSED RULES IS:

11F-8.001 Bureau Chief.

Specific Authority 120.53(1)(a), 943.03(4) FS. Law Implemented 20.04, 20.05, 20.201(2)(e), 120.53(1)(a), 943.381 FS. History—New 1-6-91, Repealed

11F-8.002 Duties of the Academy.

Specific Authority 120.53(1)(a), 943.03(4) FS. Law Implemented 20.201(2)(e), 120.53(1)(a), 943.381 FS. History—New 1-6-91, Repealed

NAME OF PERSON ORIGINATING PROPOSED RULE: Fern Rosenwasser, Assistant General Counsel, Florida Department of Law Enforcement

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Michael A. Ramage, General Counsel, Florida Department of Law Enforcement.

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: On December 8, 1998, the Governor and Cabinet approved the Department’s request to publish this notice of proposed rulemaking

DEPARTMENT OF LAW ENFORCEMENT

Division of Staff Services

RULE CHAPTER TITLE: General Services Section
RULE CHAPTER NO.: 11F-9
RULE TITLES: General Services Administrator
RULE NOS.: 11F-9.001
Duties of the Section 11F-9.002

PURPOSE AND EFFECT: The proposed repeal of Rules 11F-9.001 and 11F-9.002, F.A.C., inclusive, is necessary to eliminate administrative rules that are redundant, obsolete, or superseded by statute or rule, and to comport with the statutory requirements of Chapter 120, Florida Statutes.

SUMMARY: Pursuant to Chapter 120, Florida Statutes, housekeeping requirements Rules 11F-9.001 and 11F-9.002, F.A.C., inclusive, describing the structure and duties of the General Services Section, are repealed.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: None.

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

SPECIFIC AUTHORITY: 120.53(1)(a), 943.03(4) FS.

LAW IMPLEMENTED: 20.04, 20.05, 20.201(2)(e), 120.53(1)(a), 943.381 FS.

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

TIME AND DATE: 1:45 p.m., Monday, May 3, 1999

PLACE: Florida Department of Law Enforcement, 2331 Phillips Road, Conference Room, 3rd Floor, Quad C, Tallahassee, Florida

NOTICE UNDER THE AMERICANS WITH DISABILITIES ACT: Persons needing an accommodation to participate in any proceeding should call (850)410-7900 (voice) or (850)656-9597 (TDD), at least five working days before such proceeding.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Fern Rosenwasser, Assistant General Counsel, Office of General Counsel, Florida Department of Law Enforcement, 2331 Phillips Road, Tallahassee, Florida 32308

THE FULL TEXT OF THE PROPOSED RULES IS:

11F-9.001 General Services Administrator.

Specific Authority 120.53(1)(a), 943.03(4) FS. Law Implemented 20.04, 20.05, 20.201(2)(e), 120.53(1)(a), 943.381 FS. History--New 1-6-91, Repealed

11F-9.002 Duties of the Section.

Specific Authority 120.53(1)(a), 943.03(4) FS. Law Implemented 20.201(2)(e), 120.53(1)(a), 943.381 FS. History--New 1-6-91, Repealed

NAME OF PERSON ORIGINATING PROPOSED RULE: Fern Rosenwasser, Assistant General Counsel, Florida Department of Law Enforcement

NAME OF SUPERVISOR OR PERSON WHO APPROVED PROPOSED RULE: Michael A. Ramage, General Counsel, Florida Department of Law Enforcement

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: On December 8, 1998, the Governor and Cabinet approved the Department's request to publish this notice of proposed rulemaking

DEPARTMENT OF LAW ENFORCEMENT

Division of Staff Services

RULE CHAPTER TITLE: Accounting and Budgeting Section RULE CHAPTER NO.: 11F-10

RULE TITLES: Financing and Accounting Administrator 11F-10.001
Duties of the Section 11F-10.002

PURPOSE AND EFFECT: The proposed repeal of Rules 11F-10.001 and 11F-10.002, F.A.C., inclusive, is necessary to eliminate administrative rules that are redundant, obsolete, or superseded by statute or rule, and to comport with the statutory requirements of Chapter 120, Florida Statutes.

SUMMARY: Pursuant to Chapter 120, Florida Statutes, housekeeping requirements Rules 11F-10.001 and 11F-10.002, F.A.C., inclusive, describing the structure and duties of the Financing and Accounting Section, are repealed.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: None.

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

SPECIFIC AUTHORITY: 120.53(1)(a), 943.03(4) FS.

LAW IMPLEMENTED: 20.04, 20.05, 20.201(2)(e), 120.53(1)(a), 943.381 FS.

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

TIME AND DATE: 1:45 p.m., Monday, May 3, 1999

PLACE: Florida Department of Law Enforcement, 2331 Phillips Road, Conference Room, 3rd Floor, Quad C, Tallahassee, Florida

NOTICE UNDER THE AMERICANS WITH DISABILITIES ACT: Persons needing an accommodation to participate in any proceeding should call (850)410-7900 (voice) or (850)656-9597 (TDD), at least five working days before such proceeding.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Fern Rosenwasser, Assistant General Counsel, Office of General Counsel, Florida Department of Law Enforcement, 2331 Phillips Road, Tallahassee, Florida 32308

THE FULL TEXT OF THE PROPOSED RULES IS:

11F-10.001 Finance and Accounting Administrator.

Specific Authority 120.53(1)(a), 943.03(4) FS. Law Implemented 20.04, 20.05, 20.201(2)(e), 120.53(1)(a), 943.381 FS. History--New 1-6-91, Repealed

11F-10.002 Duties of the Section.

Specific Authority 120.53(1)(a), 943.03(4) FS. Law Implemented 20.201(2)(e), 120.53(1)(a), 943.381 FS. History—New 1-6-91, Repealed.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Fern Rosenwasser, Assistant General Counsel, Florida Department of Law Enforcement

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Michael A. Ramage, General Counsel, Florida Department of Law Enforcement

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: On December 8, 1998, the Governor and Cabinet approved the Department’s request to publish this notice of proposed rulemaking

DEPARTMENT OF LAW ENFORCEMENT

Medical Examiners Commission

RULE CHAPTER TITLE:	RULE CHAPTER NO.:
Organization	11G-1
RULE TITLES:	RULE NOS.:
Structure, Purpose	11G-1.001
General Procedures, Agenda,	
Declaratory Statement	11G-1.003
Commission Office	11G-1.004

PURPOSE AND EFFECT: Pursuant to Chapter 120 housekeeping requirements sections of this rule are being revised or eliminated because they are redundant, obsolete, or superseded by rule or statute. Amended Rule 11G-1.001(2), which incorporates language from repealed Rule 11G-5.001(2), will promote consistency and efficiency of rule placement.

SUMMARY: The amendments to Rule 11G-1.001, F.A.C., pertaining to the Structure and Purpose of the Medical Examiners Commission, remove redundant references to statutory duties of the Medical Examiners Commission as such are contained in Chapter 406, Florida Statutes. New language in Rule 11G-1.001(2) incorporates language from repealed Rule 11G-5.001(2). Rule 11G-1.003, pertaining to General Procedures and Agenda for the Medical Examiners Commission, and Rule 11G-1.004, pertaining to the Commission Office of the Medical Examiners Commission, are repealed.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: None.

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

SPECIFIC AUTHORITY: 406.04, 406.17, 943.03(4) FS.

LAWS IMPLEMENTED: 406.02, 406.06 FS.

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

TIME AND DATE: 2:45 p.m., Monday, May 3, 1999

PLACE: Florida Department of Law Enforcement, 2331 Phillips Road, Conference Room, 3rd Floor, Quad C, Tallahassee, Florida

NOTICE UNDER THE AMERICANS WITH DISABILITIES ACT: Persons needing an accommodation to participate in any proceeding should call (850)410-7337 (voice) or (850)656-9597 (TDD), at least five working days before such proceeding.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Jim Luten, Staff, Medical Examiners Commission, Florida Department of Law Enforcement, 2331 Phillips Road, Tallahassee, Florida 32308

THE FULL TEXT OF THE PROPOSED RULES IS:

11G-1.001 Structure, Purpose.

(1) No change.

(2) The Commission submits nominations to the Governor for appointment of a district medical examiner for each medical examiner district, as defined in this Rule Chapter, from nominees who are practicing physicians in pathology. In home rule counties which have established medical examiners under provisions of home rule charter, the medical examiner shall serve as the district medical examiner who would otherwise be appointed under this chapter. The purpose of the Commission is to fulfill the duties provided in Section 406.02(4), F.S.

~~(3) The Medical Examiners Commission shall establish medical examiner districts within the state pursuant to Section 406.05, F.S.~~

Specific Authority 943.03(4), 120.53(1), 406.04, 406.17 FS. Law Implemented 406.02, 406.06, 120.53(1) FS. History—New 10-18-81, Formerly 11G-1.01, Amended.

11G-1.003 General Procedures, Agenda, Declaratory Statement.

Specific Authority 120.53(1), 406.04 FS. Law Implemented 120.53(1) FS. History—New 10-18-81, Formerly 11G-1.03, Repealed.

11G-1.004 Commission Office.

Specific Authority 406.04 FS. Law Implemented 120.53(1) FS. History—New 10-18-81, Formerly 11G-1.04, Amended 4-11-88, Repealed.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Jim Luten, Staff, Medical Examiners Commission, Florida Department of Law Enforcement

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Michael A. Ramage, General Counsel

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: On December 8, 1998, the Governor and Cabinet approved the Department's request to publish this Notice of Proposed Rulemaking

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: The proposed amendments to Rule Chapter 11G-1, F.A.C, were noticed for a Rule Development workshop in the Florida Administrative Weekly on November 13, 1998

DEPARTMENT OF LAW ENFORCEMENT

Medical Examiners Commissioner

RULE CHAPTER TITLE: Standard Investigation Procedures
RULE CHAPTER NO.: 11G-2
RULE TITLE: Determination of Jurisdiction, Preliminary Procedures
RULE NO.: 11G-2.001

PURPOSE AND EFFECT: Pursuant to Chapter 120 housekeeping requirements sections of this rule are being revised or eliminated because they are redundant, obsolete, or superseded by rule or statute.

SUMMARY: The amendments to Rule 11G-2.001, F.A.C., pertaining to Determination of Jurisdiction, Preliminary Procedures, for Medical Examiners, correct references to statutory sections of the Florida Statutes and a department name that have been renumbered or revised by the Legislature.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: None.

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

SUBJECT AREA TO BE ADDRESSED: The Department's rule chapter concerning the standard investigative procedures to be followed by District Medical Examiner Offices.

SPECIFIC AUTHORITY: 943.03(4), 406.04 FS.

LAW IMPLEMENTED: 406.04, 406.11, 406.12, 406.13 FS.

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

TIME AND DATE: 3:00 p.m., Monday, May 3, 1999

PLACE: Florida Department of Law Enforcement, 2331 Phillips Road, Conference Room, 3rd Floor, Quad C, Tallahassee, Florida

NOTICE UNDER THE AMERICANS WITH DISABILITIES ACT: Persons needing an accommodation to participate in any proceeding should call (850)410-7337 (voice) or (850)656-9597 (TDD), at least five working days before such proceeding.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Jim Lutten, Staff, Medical Examiners Commission, Florida Department of Law Enforcement, 2331 Phillips Road, Tallahassee, Florida 32308

THE FULL TEXT OF THE PROPOSED RULES IS:

11G-2.001 Determination of Jurisdiction, Preliminary Procedures.

(1) through (3) No change.

(4) If a medical examiner becomes aware of a death, apparently from disease, he shall investigate it as a death from a disease constituting a threat to the public health, if

(a) the investigation is requested by an appropriate official of the Department of Health and Rehabilitative Services pursuant to ss. 381.0011 or 381.0012 381.031(3)(c) or 381.061(2), (3), (6), F.S.

(b) No change.

(5) If the medical examiner determines that jurisdiction for an investigation under Section 406.11(1)(a) or (b), F.S., does exist, he shall,

(a) inform the person having control of the body that, pursuant to Section 406.12 and 382.008 382.081, F.S., the body should not be embalmed or otherwise prepared for burial or disturbed until examined by the medical examiner,

(b) through (f) No change.

Specific Authority 943.03(4), 406.04 FS. Law Implemented 406.04, 406.11, 406.12, 406.13 FS. History--New 10-18-81, Amended 7-10-85, Formerly 11G-2.01, Amended 8-27-87, 11-24-87, 10-14-96, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Jim Lutten, Staff, Medical Examiners Commission, Florida Department of Law Enforcement

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Michael A. Ramage, General Counsel

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: On December 8, 1998, the Governor and Cabinet approved the Department's request to publish this Notice of Proposed Rulemaking

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: The amendments to Rule Chapter 11G-2, F.A.C., was noticed for a Rule Development workshop in the Florida Administrative Weekly on November 13, 1998

DEPARTMENT OF LAW ENFORCEMENT

Medical Examiners Commission

RULE CHAPTER TITLE: Disciplinary Guidelines
RULE CHAPTER NO.: 11G-3
RULE TITLE: Disciplinary Procedures
RULE NO.: 11G-3.001

PURPOSE AND EFFECT: Pursuant to Chapter 120 housekeeping requirements sections of this rule are being revised or eliminated because they are redundant, obsolete, or superseded by statute or rule.

SUMMARY: Rule 11G-3.001, F.A.C., pertaining to Disciplinary Guidelines applied to a Medical Examiner, is being repealed.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: None.

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

SPECIFIC AUTHORITY: 943.03(4), 406.04 FS.

LAW IMPLEMENTED: 406.075 FS.

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

TIME AND DATE: 3:15 p.m., Monday, May 3, 1999

PLACE: Florida Department of Law Enforcement, 2331 Phillips Road, Conference Room, 3rd Floor, Quad C, Tallahassee, Florida

NOTICE UNDER THE AMERICANS WITH DISABILITIES ACT: Persons needing an accommodation to participate in any proceeding should call (850)410-7337 (voice) or (850)656-9597 (TDD), at least five working days before such proceeding.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Jim Luten, Staff, Medical Examiners Commission, Florida Department of Law Enforcement, 2331 Phillips Road, Tallahassee, Florida 32308

THE FULL TEXT OF THE PROPOSED RULE IS:

11G-3.001 Disciplinary Procedures.

Specific Authority 406.04 FS. Law Implemented 406.02(4)(c), 406.075, 120.57, 120.60, 120.62 FS. History—New 10-18-81, Amended 3-3-82, Formerly 11G-3.01, Amended 4-11-88, Repealed.

NAME OF PERSON ORIGINATING PROPOSED RULE: Jim Luten, Staff, Medical Examiners Commission, Florida Department of Law Enforcement

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Michael A. Ramage, General Counsel

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: On December 8, 1998, the Governor and Cabinet approved the Department’s request to publish this Notice of Proposed Rulemaking

DEPARTMENT OF LAW ENFORCEMENT

Medical Examiners Commission

RULE CHAPTER TITLE: District Medical Examiner **RULE CHAPTER NO.:** 11G-5

RULE TITLE: Purpose **RULE NO.:** 11G-5.001

PURPOSE AND EFFECT: Pursuant to Chapter 120 housekeeping requirements sections of this rule are being eliminated because they are redundant, obsolete, superseded by statute or rule, or would promote consistency by placement in another rule.

SUMMARY: Rule 11G-5.001, F.A.C., pertaining to the Purpose of a District Medical Examiner, is repealed.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: None.

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

SPECIFIC AUTHORITY: 943.03(4), 406.04 FS.

LAW IMPLEMENTED: 406.06, 406.11 FS.

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

TIME AND DATE: 3:15 p.m., Monday, May 3, 1999

PLACE: Florida Department of Law Enforcement, 2331 Phillips Road, Conference Room, 3rd Floor, Quad C, Tallahassee, Florida

NOTICE UNDER THE AMERICANS WITH DISABILITIES ACT: Persons needing an accommodation to participate in any proceeding should call (850)410-7337 (voice) or (850)656-9597, (TDD), at least five working days before such proceeding.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Jim Luten, Staff, Medical Examiners Commission, Florida Department of Law Enforcement, 2331 Phillips Road, Tallahassee, Florida 32308

THE FULL TEXT OF THE PROPOSED RULE IS:

11G-5.001 Purpose.

Specific Authority 406.04 FS. Law Implemented 406.06(1)(a), 406.11(1) FS. History—New 2-23-93, Repealed.

NAME OF PERSON ORIGINATING PROPOSED RULE: Jim Luten, Staff, Medical Examiners Commission, Florida Department of Law Enforcement

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Michael A. Ramage, General Counsel

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: On December 8, 1998, the Governor and Cabinet approved the Department's request to publish this Notice of Proposed Rulemaking

DEPARTMENT OF LAW ENFORCEMENT

Employee Relations

RULE CHAPTER TITLE:	RULE CHAPTER NO.:
Disciplinary Procedures and Standards for Disciplinary Actions	11I-1
RULE TITLES:	RULE NOS.:
Purpose	11I-1.001
Disciplinary Actions: Definitions	11I-1.002
Authority for Disciplinary Actions	11I-1.003
Types of Discipline – Procedure	11I-1.004
Disciplinary Investigations	11I-1.005
Procedure for Suspension or Dismissal	11I-1.006
Notice of Final Action	11I-1.007
Predetermination Procedures; Extraordinary Situations	11I-1.008
Appeals to the Public Employees Relations Commission	11I-1.010
Acts of Misconduct and Work Standard	
Violations for Department Employees	11I-1.011
Standards of Disciplinary Action	11I-1.012
Savings Clause	11I-1.014

PURPOSE AND EFFECT: The amendments to Rule Chapter 11I-1, F.A.C. delete redundant references to procedures outlined in Rule 60K-9, F.A.C. which take precedence over agency rules pursuant to s. 110.201(2), Florida Statutes. The additional changes clarify authority within the Department of Law Enforcement to impose disciplinary action, and define violations of law or agency rules, in accordance with s. 110.227(1), F.S. and Rule 60K-9.003, F.A.C.

SUMMARY: Rule 11I-1.001 is amended to reflect correct statutory authority for rulemaking by the Department of Law Enforcement. Rule 11I-1.002 is amended to reflect a change in Department of Management Services (DMS) Administrative Rule numbers. Rule 11I-1.003 is amended to clarify authority within the Department to impose disciplinary action. Rule 11I-1.004 is amended to clarify authority within the Department to impose certain disciplinary action, and to reflect the change in name of an administrative position within the Department. Rule 11I-1.005 is amended to change certain language to make it more understandable and clarifies the subject of a particular sentence. Rule 11I-1.006 is amended to reflect changes in DMS rule numbers, and to delete language set forth in Florida Administrative Code Rule 60K-9, which takes precedence over agency rules in accordance with section 110.201(2), Florida Statutes. Rules 11I-1.007 and 1.008 are repealed as they are duplicative of provisions of Florida Administrative Code Rule 60K-9, which takes precedence over agency rules in accordance with section 110.201(2), Florida

Statutes. Rule 11I-1.010 is repealed. Rule 11I-1.011 is amended to clarify the elements of certain offenses, and to create the new offenses of "excessive departures" and "excessive absence." Rule 11I-1.012, Appendix A, is amended to reflect concerns regarding integrity, to clarify the offense of "failure to report investigation," and to reflect the new offense of "excessive absence." Rule 11I-1.014 is amended to reflect correct statutory authority for rulemaking by the Department of Law Enforcement.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: None.

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

SPECIFIC AUTHORITY: 943.03(4) FS.

LAW IMPLEMENTED: 110.201(2), 110.205(3), 110.227, 112.532(1), (2) and (4), 112.533, 943.03(4) FS.

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

TIME AND DATE: 2:00 p.m., Monday, May 3, 1999

PLACE: Florida Department of Law Enforcement, 2331 Phillips Road, Conference Room, 3rd Floor, Quad C, Tallahassee, Florida

NOTICE UNDER THE AMERICANS WITH DISABILITIES ACT: Persons needing an accommodation to participate in any proceeding should call (850)410-7900 (voice) or (850)656-9597 (TDD), at least five working days before such proceeding.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: David A. Sessions, Assistant General Counsel, Office of General Counsel, Florida Department of Law Enforcement, 2331 Phillips Road, Tallahassee, Florida 32308

THE FULL TEXT OF THE PROPOSED RULES IS:

11I-1.001 Purpose.

No change.

Specific Authority 943.03(4), 110.201(2), 112.533, ~~943.03(3)~~ FS. Law Implemented 110.201(2), 112.533, 943.03(4)(~~3~~) FS. History–New 7-8-82, Formerly 11I-1.01.

11I-1.002 Disciplinary Actions: Definitions.

(1) Disciplinary actions by the department are penalties against employees for various types of work deficiencies and conduct offenses. Realizing that disciplinary actions are necessary, the purpose of this section is to comply with Department of Management Services Administration Rule 60K-9.003 ~~22A-10.003~~, F.A.C., by establishing standards and

procedures which will insure timely and equitable disposition of actions determined to be necessary in dealing effectively with employee deficiencies and breaches of good conduct.

(2) through (4) No change.

Specific Authority 110.201(2), 943.03(4) FS. Law Implemented 110.205(3), 110.227, 943.03(4)(~~3~~) FS. History—New 7-8-82, Formerly 11I-1.02, Amended 7-1-90,_____.

11I-1.003 Authority for Disciplinary Actions.

(1) Specific disciplinary action shall ~~may~~ be taken by a supervisor having ~~the appropriate~~ delegated authority from the Executive Director of the Department of Law Enforcement. This delegation of authority varies with the severity of the particular disciplinary action and is identified in the following table:

DISCIPLINARY ACTION	AUTHORITY
Oral Reprimand	Immediate Supervisor or any higher level supervisor
Written Reprimand	Immediate Supervisor or any higher level supervisor
Reduction in Pay	Executive Division Director level or above
Demotion	Executive Division Director level or above
Suspension	Executive Division Director
Dismissal	Executive Director

(2) Any employee who either observes, is aware of, or receives a complaint from any source alleging employee behavior violating a rule of conduct shall promptly submit a report on the employee behavior to his or her immediate supervisor on ~~the an~~ Internal Inquiry Form, FDLE 10-031, (Rev. 4/93), incorporated by reference., to be provided by the Department. Any supervisor who observes, is aware of, or receives a complaint from any source relating to employee behavior, which could result in disciplinary action ~~greater than a reprimand~~, shall promptly report the behavior through the Chain of Command, as specified on the on a Department Internal Inquiry Form, FDLE 10-030.

Specific Authority 943.03(4) FS. Law Implemented 110.227 FS. History—New 7-8-82, Formerly 11I-1.03, Amended 7-1-90,_____.

11I-1.004 Types of Discipline – Procedure.

(1) through (2)(b) No change.

(c) Reduction in Pay – Reduction in pay means reducing the base rate of pay of an employee. If the ~~Executive Division~~ Director determines to reduce the pay of any employee, the employee shall be notified in writing by the Department by certified mail with return receipt requested before the effective date of the action as required under Section 110.227(4), F.S.

The ~~Executive Division~~ Director shall consult with the Department’s ~~Administrator, Human Resources Chief, Bureau of Personnel~~ Management, the Office of General Counsel, and the Executive Director, the Assistant Commissioner or Deputy Commissioner prior to reducing the pay of an employee.

(d) Demotion – Demotion means moving an employee from a position in one class to a different position in another class having a lesser degree of responsibility and a lower salary range maximum. If the ~~Executive Division~~ Director determines to demote an employee, the employee shall be notified in writing by the Department by certified mail with return receipt requested before the effective date of the action as required under Section 110.227(4), F.S.

The ~~Executive Division~~ Director shall consult with the Department’s ~~Administrator, Human Resources Chief, Bureau of Personnel~~ Management, and the Office of the General Counsel, ~~and the Executive Director, Assistant Commissioner or Deputy Commissioner~~ prior to reducing the pay of an employee.

(e) Suspension – A suspension is the action taken to temporarily relieve an employee of duties and place him or her on leave without pay. Like dismissal, suspension requires proof of just cause and should be used in the case of the commission of a major offense in relation to the employee’s job duties and position or as a more severe discipline following an accumulation of reprimands.

The ~~Executive Division~~ Director shall consult with the ~~Department’s Chief, Bureau of Personnel Management, and~~ the Office of the General Counsel prior to implementing a suspension notice.

The procedure to be followed for suspension is provided in Rules 11I-1.006 and 60K-9, F.A.C.

(f) Dismissal — Dismissal is the action taken by an agency against an employee to separate the employee him/her from the Career Service. Dismissal shall be administered only for just cause.

The Executive Director shall consult with the Office of the General Counsel prior to implementing a dismissal notice.

The procedure to be followed for suspension is provided in Rules 11I-1.006 and 60K-9, F.A.C.

Specific Authority 943.03(4) FS. Law Implemented 110.227(1),(4),(5)(a), 112.532(4) FS. History—New 7-8-82, Formerly 11I-1.04, Amended 7-1-90,_____.

11I-1.005 Disciplinary Investigations.

The methods and agents of investigation utilized prior to notice of personnel action shall vary with the nature of the offense and the needs of the employer to obtain complete information. In the event that law enforcement personnel are under investigation, the rights provided under Part VI, Chapter 112, Florida Statutes, as to notice and methods of interrogation shall be applied. If an employee is included in a bargaining unit which is subject to a collective bargaining agreement, that an employee may request that a Union representative be present

during any disciplinary investigation or investigatory meeting in which the employee is being questioned about relative to alleged misconduct of the employee.

Specific Authority 943.03(4)(3) FS. Law Implemented 112.532(1), 112.532(4), 112.533 FS. History—New 7-8-82, Formerly 11I-1.05, Amended _____.

11I-1.006 Procedure for Suspension or Dismissal.

Prior to the suspension or dismissal of any permanent career service employee, the designated disciplinary authority shall give the employee written notice and an opportunity for a predetermination conference as provided for in Section 110.227(5), Florida Statutes, and as implemented in Rules 60K-9.0041 22A-9.0041 through 60K-9.0046 22A-10.0046, F.A.C.

(1) Predetermination Procedures: Notice, Form, Delivery.

(a) ~~Except in the extraordinary situations described in Rule 11I-1.008 the employee shall be given notice of the proposed action in time for the notice to be received by the employee at least ten (10) calendar days prior to the date the action is to be taken.~~

(b) ~~The notice shall be in writing and shall be mailed to the employee by certified mail, return receipt requested. In addition, the department may deliver a copy of the notice to the hand of the employee. A mailed notice shall constitute full and complete notice even if the mail is refused or ignored by the employee.~~

(c) ~~The notice shall be signed by the person authorized to make the final decision or his/her designated representative and shall include the following:~~

- ~~1. The date the department proposes to take final action.~~
- ~~2. The specific charges or reasons for the action. Identification of any documents on which the charges are based shall be included.~~

~~3. A statement advising the employee that he may, within five (5) workdays of receipt of the notice, submit a request in writing for a conference in order to make an oral or a written statement or both to the department to refute or explain the charges made against the employee. The notice shall give the name, address and telephone number of the person to whom the request for a conference shall be directed. The notice shall advise the employee that the conference will be held prior to the proposed effective date of the action, at a time and place determined by the department, normally during regular business hours.~~

~~4. A statement that the department is sincere in its desire to reduce the risk of error in taking the disciplinary action against the employee and to avoid a wrongful damaging of the employee's reputation by untrue or erroneous charges, and therefore, the employing agency is sincerely interested in receiving and considering the employee's response.~~

~~5. A copy of Rule 11I-1.006—11I-1.007, which effectively summarize 22A-10.041—22A-10.045, F.A.C., shall be enclosed with the notice.~~

~~6. A statement that if the employee chooses to make no response, the department will proceed on the basis of the best information it can obtain without such response.~~

~~(2) Conference:~~

~~(a) The conference must be conducted by the person authorized to make the final decision or his/her designated representative(s).~~

~~(b) The person, or persons, conducting the conference shall convene the conference at the time and place set by the department, normally in Tallahassee, Florida, and shall identify himself or herself, the employee and all other participants and explain that the purpose of the conference is to hear the employee's side of the charges so as to protect the employee from erroneous or arbitrary adverse action, and that the department's further purpose is to afford the department an opportunity to reevaluate its position after reviewing the information presented by the employee and to affirm or alter its action as may be warranted.~~

~~(c) The conference shall be informal and shall not be in the nature of an evidentiary hearing. The employee may bring an attorney or qualified representative to assist or advise him, but discovery, cross-examination, and similar legal procedures are not permissible.~~

~~(d) The employee shall be permitted to submit relevant information orally or in writing, or both, with the privilege being reserved to the department to give such information such weight as it deems proper.~~

~~(e) At the conclusion of the conference, the presiding person shall inform the employee when the department will decide whether or not to take the disciplinary action and that the employee will be promptly notified.~~

Specific Authority 943.03(4)(3), 110.201(2) FS. Law Implemented 110.227(5)(a), 112.532(4) FS. History—New 7-8-82, Formerly 11I-1.06, Amended 7-14-87, _____.

11I-1.007 Notice of Final Action.

Specific Authority 943.03(3) FS. Law Implemented 110.227(5)(a) FS. History—New 7-8-82, Formerly 11I-1.07, Repealed _____.

11I-1.008 Predetermination Procedures; Extraordinary Situations.

Specific Authority 943.03(3) FS. Law Implemented 110.227(5)(b), 112.532(4) FS. History—New 7-8-82, Formerly 11I-1.08, Amended 7-14-87, Repealed _____.

11I-1.010 Appeals to the Public Employees Relations Commission.

Specific Authority 943.03 FS. Law Implemented 110.227(4),(5) FS. History—New 7-8-82, Formerly 11I-1.10, Amended 7-14-87, 7-1-90, Repealed _____.

11I-1.011 Acts of Misconduct and Work Standard Violations for Department Employees.

The following acts of misconduct and work standard violations are unacceptable for the employees of FDLE this Department and will subject them to disciplinary action:

(1) Unbecoming conduct. Unbecoming conduct includes any willful action or conduct which ~~impedes the Department's efforts to achieve its goals,~~ brings discredit on the Department or a member, or impairs the operation or efficiency of the Department or any employee. It is not necessary that the actions of the employee have any effect on persons or activities outside the Department in order to support disciplinary action for a violation of this standard.

(2) No change.

(3) Abuse of position. Abuse of position or identification as an employee of the Department for personal gain or influence or to avoid the consequences of unlawful acts. This also includes:

(a) Soliciting or accepting any gratuity, gift, loan, reward, promise of future employment, favor or service that would cause the employee to be influenced in the exercise of official duties or that is based on any understanding that any official action or judgment of the employee may be influenced thereby.

(b) Identifying oneself as a member of the Department when detained by other law enforcement personnel except when in the actual performance of official duty, or upon being asked for identification by the detaining officer(s).

(4) Failure to perform. Failure to perform a lawful duty or neglect of duty during working hours. Examples include the failure to meet performance standards established for the employee through the employee's work plan, performance contract or by memorandum; and failure to adequately complete assigned tasks.

(5) No change.

(6) Excessive tardiness ~~and departures.~~ A pattern of failure Failure to be prompt for duty assignment or to follow established work schedules, including reporting late at the beginning of the work schedule, leaving early or returning late from lunch or rest breaks, or leaving work early at the end of the work schedule, ~~all without approval,~~ Three or more unscheduled or unexcused occurrences of tardiness in any 30 day period shall be considered excessive.

(7) No change.

(8) Falsification of records. Intentionally making a false or incomplete report, written or oral, or intentionally omitting to make a requested or required report. Examples include This includes false illness or injury reports, falsification of time sheets, as well as the making of any signature or initials of another without prior approval.

(9) Willful failure to ~~submit~~ immediately ~~a written~~ report that any member of the Department, including oneself, is under investigation by, or has been detained by, any criminal justice agency. This shall include any traffic stop during which the member was identified as an employee of FDLE.

(10) through (23) No change.

(24) Excessive Absence. A record of repeated absences without approval prior to the absence. This includes absences resulting from calling-in sick on the day of the absence. The

Department has a right to expect that the employee will be present to perform work as scheduled. In addition, if there is a pattern of absence by an employee, such as consistent absences on the day preceding or following the employee's regular days off, or absences on the same day of each week or each month, then these absences constitute abuse of leave.

Specific Authority 943.03(4), 110.227(2) FS. Law Implemented 110.227(1)(2) FS. History--New 7-8-82, Formerly 111-1.11, Amended 7-14-87, 7-1-90, _____.

111-1.012 Standards of Disciplinary Action.

No change.

Specific Authority 943.03(4)(3), 110.227(2) FS. Law Implemented 110.227(1) FS. History--New 7-8-82, Formerly 111-1.12, Amended _____.

111-1.014 Savings Clause.

Any employee actions that occur prior to the date of the promulgation of these rules, for which disciplinary action may be taken but for which disciplinary action has not begun, shall have disciplinary actions administered pursuant to the procedures outlined herein.

Specific Authority 943.03(4)(3) FS. Law Implemented 110.227(1) FS. History--New 7-8-82, Formerly 111-1.14, Amended _____.

Appendix A

Standards of Disciplinary Action:

As stated in these Standards of Disciplinary Action, whenever a standard includes Suspension or Dismissal, said penalty includes all lesser penalties including demotions and reduction in pay.

Offense	First Time	Second Time	Third Time
(1) through (7) No change.			
(8) Falsification of Records	Written Reprimand or up to 30 days Suspension or Dismissal	Up to 30 days Suspension or Dismissal	Dismissal
(9) Willful Failure to Submit Report that Department Member is Under Investigation or has been detained by Any Criminal Justice Agency	Up to 30 days Suspension	Dismissal	
(10) through (23) No change.			
(24) Excessive Absence	Oral or Written Reprimand or up to 30 days Suspension or Dismissal	Written Reprimand or up to 30 days Suspension or Dismissal	Dismissal

* In the case of a person who ~~is an~~ ~~may be~~ alcoholic, the State's policy on counseling of alcoholics shall be utilized.

NAME OF PERSON ORIGINATING PROPOSED RULE:
David A. Sessions, Assistant General Counsel, Florida Department of Law Enforcement

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Michael A. Ramage, General Counsel, Florida Department of Law Enforcement
DATE PROPOSED RULE APPROVED BY AGENCY HEAD: On December 8, 1998, the Governor and Cabinet approved the Department's request to publish this Notice of Proposed Rulemaking
DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: The proposed amendments to Rule Chapter 11I, F.A.C., were noticed for a Rule Development workshop in the Florida Administrative Weekly on November 13, 1998

DEPARTMENT OF LAW ENFORCEMENT

Employee Relations

RULE CHAPTER TITLE: Dual Employment
RULE CHAPTER NO.: 11I-2
RULE TITLES: Purpose, Statement of Policy, Procedure for Securing Approval for Dual Employment, Penalty for Violations
RULE NOS.: 11I-2.001, 11I-2.002, 11I-2.003, 11I-2.004

PURPOSE AND EFFECT: The proposed repeal of Rule Chapter 11I-2, F.A.C., pertaining to Dual Employment, is necessary to eliminate administrative rules that are redundant, obsolete, or superseded by statute or rule and to comport with the statutory requirements of Chapter 120, Florida Statutes.

SUMMARY: Rule Chapter 11I-2, F.A.C., pertaining to dual employment of FDLE employees, is repealed to conform to the requirements of s. 120.74, F.S.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: None.

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

SPECIFIC AUTHORITY: 943.03(3), 110.209 FS.

LAW IMPLEMENTED: 216.262 FS.

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

TIME AND DATE: 2:30 p.m., Monday, May 3, 1999

PLACE: Florida Department of Law Enforcement, 2331 Phillips Road, Conference Room, 3rd Floor, Quad C, Tallahassee, Florida

NOTICE UNDER THE AMERICANS WITH DISABILITIES ACT: Persons needing an accommodation to participate in any proceeding should call (850)410-7900 (voice) or (850)656-9597 (TDD), at least five working days before such proceeding.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: David A. Sessions, Assistant General Counsel, Office of General Counsel, Florida Department of Law Enforcement, 2331 Phillips Road, Tallahassee, Florida 32308

THE FULL TEXT OF THE PROPOSED RULES IS:

11I-2.001 Purpose.

Specific Authority 943.03(3), 110.209 FS. Law Implemented 216.262 FS. History--New 7-8-82, Formerly 11I-2.01, Repealed.

11I-2.002 Statement of Policy.

Specific Authority 943.03(3) FS. Law Implemented 216.262 FS. History--New 7-8-82, Formerly 11I-2.02, Repealed.

11I-2.003 Procedure for Securing Approval for Dual Employment.

Specific Authority 943.03(3) FS. Law Implemented 216.262 FS. History--New 7-8-82, Formerly 11I-2.03, Repealed.

11I-2.004 Penalty for Violations.

Specific Authority 943.03(3) FS. Law Implemented 216.262 FS. History--New 7-8-82, Formerly 11I-2.04, Repealed.

NAME OF PERSON ORIGINATING PROPOSED RULE: David A. Sessions, Assistant General Counsel, Florida Department of Law Enforcement

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Michael A. Ramage, General Counsel, Florida Department of Law Enforcement

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: On December 8, 1998, the Governor and Cabinet approved the Department's request to publish this Notice of Proposed Rulemaking

DEPARTMENT OF LAW ENFORCEMENT

Employee Relations

RULE CHAPTER TITLE: Employee Grievance Procedure
RULE CHAPTER NO.: 11I-3
RULE TITLES: Scope and Purpose, Definitions and Policy, Procedure
RULE NOS.: 11I-3.001, 11I-3.002, 11I-3.003

PURPOSE AND EFFECT: The proposed repeal of Rule Chapter 11I-3, F.A.C., pertaining to Employee Grievance Procedure, is necessary to eliminate administrative rules that are redundant, obsolete, or superseded by statute or rule and to comport with the statutory requirements of Chapter 120, Florida Statutes.

SUMMARY: Rule Chapter 11I-3, F.A.C., pertaining to grievance by FDLE employees, is repealed to conform to the requirements of s. 120.74, F.S.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: None.

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

SPECIFIC AUTHORITY: 943.03(3), 110.209 FS.

LAW IMPLEMENTED: 216.262 FS.

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

TIME AND DATE: 2:30 p.m., Monday, May 3, 1999

PLACE: Florida Department of Law Enforcement, 2331 Phillips Road, Conference Room, 3rd Floor, Quad C, Tallahassee, Florida

NOTICE UNDER THE AMERICANS WITH DISABILITIES ACT: Persons needing an accommodation to participate in any proceeding should call (850)410-7900, (voice) or (850)656-9597, (TDD), at least five working days before such proceeding.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: David A. Sessions, Assistant General Counsel, Office of General Counsel, Florida Department of Law Enforcement, 2331 Phillips Road, Tallahassee, Florida 32308

THE FULL TEXT OF THE PROPOSED RULES IS:

11I-3.001 Scope and Purpose.

Specific Authority 110.201(2), 943.03(3) FS. Law Implemented 110.201(2), 943.03(3) FS. History—New 12-30-82, Formerly 11I-3.01, Repealed.

11I-3.002 Definitions and Policy.

Specific Authority 110.201(2), 943.03(3) FS. Law Implemented 110.201(2), 943.03(3) FS. History—New 12-30-82, Formerly 11I-3.02, Repealed.

11I-3.003 Procedure.

Specific Authority 110.201(2), 943.03(3) FS. Law Implemented 110.201(2), 943.03(3) FS. History—New 12-30-82, Formerly 11I-3.03, Amended 2-19-90, Repealed.

NAME OF PERSON ORIGINATING PROPOSED RULE: David A. Sessions, Assistant General Counsel, Florida Department of Law Enforcement

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Michael A. Ramage, General Counsel, Florida Department of Law Enforcement

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: On December 8, 1998, the Governor and Cabinet approved the Department’s request to publish this Notice of Proposed Rulemaking

DEPARTMENT OF LAW ENFORCEMENT
Sexual Harrassment

RULE CHAPTER TITLE:	RULE CHAPTER NO.:
Sexual Harassment	11J-1
RULE TITLES:	RULE NOS.:
Scope and Purpose	11J-1.001
Policy Statement	11J-1.002
Definition of Sexual Harassment	11J-1.003
Notice to Employees	11J-1.004
Procedure for Filing Complaint	11J-1.005
Investigation Procedure	11J-1.006
Complaint Disposition	11J-1.007
Proceedings Prior to Taking Disciplinary Action	11J-1.008
Disciplinary Action	11J-1.009
Records of Investigation and Disposition	11J-1.010
Prohibition Against Retaliation	11J-1.011

PURPOSE AND EFFECT: The proposed repeal of Rule Chapter 11J-1, F.A.C., pertaining to Sexual Harassment, is necessary to eliminate administrative rules that are redundant, obsolete, or superseded by statute or rule and to comport with the statutory requirements of Chapter 120, Florida Statutes.

SUMMARY: Rule Chapter 11J-1, pertaining to sexual harassment, is repealed to conform to the requirements of s. 120.74, F.S.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: None.

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

SPECIFIC AUTHORITY: 943.03(3), 110.105, 110.201 FS.

LAW IMPLEMENTED: 23.167, 110.105, 110.227, 110.233 FS.

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

TIME AND DATE: 2:30 p.m., Monday, May 3, 1999

PLACE: Florida Department of Law Enforcement, 2331 Phillips Road, Conference Room, 3rd Floor, Quad C, Tallahassee, Florida

NOTICE UNDER THE AMERICANS WITH DISABILITIES ACT: Persons needing an accommodation to participate in any proceeding should call (850)410-7900 (voice) or (850)656-9597 (TDD), at least five working days before such proceeding.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: David A. Sessions, Assistant General Counsel, Office of General Counsel, Florida Department of Law Enforcement, 2331 Phillips Road, Tallahassee, Florida 32308

THE FULL TEXT OF THE PROPOSED RULES IS:

11J-1.001 Scope and Purpose.

Specific Authority 20.05, 110.105, 110.201, 943.03(3) FS. Law Implemented 23.167, 110.105, 110.227, 110.233 FS. History—New 12-29-83, Formerly 11J-1.01, Repealed.

11J-1.002 Policy Statement.

Specific Authority 20.05, 110.105, 110.201, 943.03(3) FS. Law Implemented 23.167, 110.105, 110.227, 110.233 FS. History—New 12-29-83, Formerly 11J-1.02, Repealed.

11J-1.003 Definition of Sexual Harassment.

Specific Authority 20.05, 110.105, 110.201, 943.03(3) FS. Law Implemented 23.167, 110.105, 110.227, 110.233 FS. History—New 12-29-83, Formerly 11J-1.03, Repealed.

11J-1.004 Notice to Employees.

Specific Authority 20.05, 110.105, 110.201, 943.03(3) FS. Law Implemented 23.167, 110.105, 110.227, 110.233 FS. History—New 12-29-83, Formerly 11J-1.04, Repealed.

11J-1.005 Procedure for Filing Complaint.

Specific Authority 20.05, 110.105, 110.201, 943.03(3) FS. Law Implemented 23.167, 110.105, 110.227, 110.233 FS. History—New 12-29-83, Formerly 11J-1.05, Repealed.

11J-1.006 Investigation Procedure.

Specific Authority 20.05, 110.105, 110.201, 943.03(3) FS. Law Implemented 23.167, 110.105, 110.227, 110.233 FS. History—New 12-29-83, Formerly 11J-1.06, Repealed.

11J-1.007 Complaint Disposition.

Specific Authority 20.05, 110.105, 110.201, 943.03(3) FS. Law Implemented 23.167, 110.105, 110.227, 110.233 FS. History—New 12-29-83, Formerly 11J-1.07, Repealed.

11J-1.008 Proceedings Prior to Taking Disciplinary Action.

Specific Authority 20.05, 110.105, 110.201, 943.03(3) FS. Law Implemented 23.167, 110.105, 110.227, 110.233 FS. History—New 12-29-83, Formerly 11J-1.08, Repealed.

11J-1.009 Disciplinary Action.

Specific Authority 20.05, 110.105, 110.201, 943.03(3) FS. Law Implemented 23.167, 110.105, 110.227, 110.233 FS. History—New 12-29-83, Formerly 11J-1.09, Repealed.

11J-1.010 Records of Investigation and Disposition.

Specific Authority 20.05, 110.105, 110.201, 943.03(3) FS. Law Implemented 23.167, 110.105, 110.227, 110.233 FS. History—New 12-29-83, Formerly 11J-1.10, Repealed.

11J-1.011 Prohibition Against Retaliation.

Specific Authority 20.05, 110.105, 110.201, 943.03(3) FS. Law Implemented 23.167, 110.105, 110.227, 110.233 FS. History—New 12-29-83, Formerly 11J-1.11, Repealed.

NAME OF PERSON ORIGINATING PROPOSED RULE: David A. Sessions, Assistant General Counsel, Florida Department of Law Enforcement

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Michael A. Ramage, General Counsel, Florida Department of Law Enforcement

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: On December 8, 1998, the Governor and Cabinet approved the Department's request to publish this Notice of Proposed Rulemaking

DEPARTMENT OF LAW ENFORCEMENT

Crime Laboratory Council

RULE CHAPTER TITLE:	RULE CHAPTER NO.:
Organization	11M-1
RULE TITLES:	RULE NOS.:
Structure, Purpose	11M-1.001
General Procedures, Agenda,	
Declaratory Statement	11M-1.002
Council Office	11M-1.003
Statutes and Rules Affecting Council	11M-1.004

PURPOSE AND EFFECT: The proposed repeal of Rules 11M-1.001 through 11M-1.004, F.A.C., inclusive, is necessary to eliminate administrative rules that are redundant, obsolete, or superseded by statute or rule, and to comport with the statutory requirements of Chapter 120, Florida Statutes.

SUMMARY: Pursuant to Chapter 120, Florida Statutes, housekeeping requirements Rules 11M-1.001 through 11M-1.004, F.A.C., inclusive, describing the organization of the Florida Crime Laboratory Council, are repealed.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: None.

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

SPECIFIC AUTHORITY: 120.53, 943.03(3), 943.03(4) FS.

LAW IMPLEMENTED: 943.355, 943.356 FS.

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

TIME AND DATE: 1:45 p.m., Monday, May 3, 1999

PLACE: Florida Department of Law Enforcement, 2331 Phillips Road, Conference Room, 3rd Floor, Quad C, Tallahassee, Florida

NOTICE UNDER THE AMERICANS WITH DISABILITIES ACT: Persons needing an accommodation to participate in any proceeding should call (850)410-7900 (voice) or (850)656-9597, (TDD), at least five working days before such proceeding.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Joe White, Program Area Legal Advisor, Florida Department of Law Enforcement, 2331 Phillips Road, Tallahassee, Florida 32308

THE FULL TEXT OF THE PROPOSED RULES IS:

11M-1.001 Structure, Purpose.

Specific Authority 120.53(1), 943.03(3) FS. Law Implemented 943.355, 943.356 FS. History—New 10-18-89, Repealed.

11M-1.002 General Procedures, Agenda, Declaratory Statement.

Specific Authority 120.53(1), 943.03(3) FS. Law Implemented 943.355 FS. History—New 10-18-89, Repealed.

11M-1.003 Council Office.

Specific Authority 120.53(1), 943.03(3) FS. Law Implemented 943.355 FS. History—New 10-18-89, Repealed.

11M-1.004 Statutes and Rules Affecting Council.

Specific Authority 120.53(1), 943.03(3) FS. Law Implemented 943.355 FS. History—New 10-18-89, Repealed.

NAME OF PERSON ORIGINATING PROPOSED RULE: Joe White, Program Area Legal Advisor, Florida Department of Law Enforcement

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Michael A. Ramage, General Counsel, Florida Department of Law Enforcement

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: On December 8, 1998, the Governor and Cabinet approved the Department’s request to publish this notice of proposed rulemaking

DEPARTMENT OF LAW ENFORCEMENT

Crime Laboratory Council

RULE CHAPTER TITLE: Definitions
 RULE CHAPTER NO.: 11M-2
 RULE TITLE: Definitions
 RULE NO.: 11M-2.001

PURPOSE AND EFFECT: The proposed repeal of Rule 11M-2.001, F.A.C., is necessary to eliminate administrative rules that are redundant, obsolete, or superseded by statute or rule, and to comport with the statutory requirements of Chapter 120, Florida Statutes.

SUMMARY: Pursuant to Chapter 120, Florida Statutes, housekeeping requirements Rule 11M-2.001, F.A.C., enumerating definitions concerning the Florida Crime Laboratory Council, is repealed.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: None.

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

SPECIFIC AUTHORITY: 120.53(1), 943.03(4) FS.

LAW IMPLEMENTED: 943.32, 943.35, 943.355, 943.36, 943.361 FS.

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

TIME AND DATE: 1:45 p.m., Monday, May 3, 1999

PLACE: Florida Department of Law Enforcement, 2331 Phillips Road, Conference Room, 3rd Floor, Quad C, Tallahassee, Florida

NOTICE UNDER THE AMERICANS WITH DISABILITIES ACT: Persons needing an accommodation to participate in any proceeding should call (850)410-7900 (voice) or (850)656-9597, (TDD), at least five working days before such proceeding.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Joe White, Program Area Legal Advisor, Florida Department of Law Enforcement, 2331 Phillips Road, Tallahassee, Florida 32308

THE FULL TEXT OF THE PROPOSED RULE IS:

11M-2.001 Definitions.

Specific Authority 120.53(1), 943.03(4) FS. Law Implemented 943.32, 943.35, 943.355, 943.36, 943.361 FS. History—New 10-18-89, Amended 6-18-90, Repealed.

NAME OF PERSON ORIGINATING PROPOSED RULE: Joe White, Program Area Legal Advisor, Florida Department of Law Enforcement

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Michael A. Ramage, General Counsel, Florida Department of Law Enforcement

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: On December 8, 1998, the Governor and Cabinet approved the Department’s request to publish this notice of proposed rulemaking

DEPARTMENT OF LAW ENFORCEMENT

Crime Laboratory Council

RULE CHAPTER TITLE: Financial Assistance for Statewide Criminal Analysis Laboratories
 RULE CHAPTER NO.: 11M-3

RULE TITLES: Purpose
 Legislative Budget Submission Process
 Allocation of Appropriated Funds
 Payment Procedures – Aid to Local Crime Laboratory Funds
 Guidelines for Additions to Statewide System
 RULE NOS.: 11M-3.001
 11M-3.002
 11M-3.003
 11M-3.004
 11M-3.005

PURPOSE AND EFFECT: The proposed repeal of Rules 11M-3.001 through 3.005, F.A.C., is necessary to eliminate administrative rules that are redundant, obsolete, or superseded by statute or rule, and to comport with the statutory requirements of Chapter 120, Florida Statutes.

SUMMARY: Pursuant to Chapter 120, Florida Statutes, housekeeping requirements Rules 11M-3.001 through 3.005, F.A.C., enumerating definitions concerning the Florida Crime Laboratory Council, are repealed.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: None.

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

SPECIFIC AUTHORITY: 120.53(1), 943.03(3),(4) FS.

LAW IMPLEMENTED: 943.35, 943.356, 943.36, 943.361 FS. IF REQUESTED IN WRITING WITHIN 21 DAYS OF THIS NOTICE A HEARING WILL BE HELD AT THE TIME, DATE AND PLACE SHOWN BELOW (IF NOT REQUESTED, THIS HEARING WILL NOT BE HELD):

TIME AND DATE: 1:45 p.m., Monday, May 3, 1999

PLACE: Florida Department of Law Enforcement, 2331 Phillips Road, Conference Room, 3rd Floor, Quad C, Tallahassee, Florida

NOTICE UNDER THE AMERICANS WITH DISABILITIES ACT: Persons needing an accommodation to participate in any proceeding should call (850)410-7900 (voice) or (850)656-9597, (TDD), at least five working days before such proceeding.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Joe White, Program Area Legal Advisor, Florida Department of Law Enforcement, 2331 Phillips Road, Tallahassee, Florida 32308

THE FULL TEXT OF THE PROPOSED RULES IS:

11M-3.001 Purpose.

Specific Authority 120.53(1), 943.03(3) FS. Law Implemented 943.35, 943.356, 943.36, 943.361 FS. History–New 10-18-89, Repealed.

11M-3.002 Legislative Budget Submission Process.

Specific Authority 120.53(1), 943.03(4) FS. Law Implemented 943.35, 943.356, 943.36 FS. History–New 10-18-89, Amended 6-18-90, Repealed.

11M-3.003 Allocation of Appropriated Funds.

Specific Authority 120.53(1), 943.03(4) FS. Law Implemented 943.35, 943.356(1), 943.36 FS. History–New 10-18-89, Amended 6-18-90, Repealed.

11M-3.004 Payment Procedures – Aid to Local Crime Laboratory Funds.

Specific Authority 120.53(1), 943.03(3) FS. Law Implemented 943.35, 943.356, 943.36, 943.361 FS. History–New 10-18-89, Repealed.

11M-3.005 Guidelines for Additions to Statewide System.

Specific Authority 943.03(4) FS. Law Implemented 943.356(2) FS. History–New 6-18-90, Repealed.

NAME OF PERSON ORIGINATING PROPOSED RULE: Joe White, Program Area Legal Advisor, Florida Department of Law Enforcement

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Michael A. Ramage, General Counsel, Florida Department of Law Enforcement

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: On December 8, 1998, the Governor and Cabinet approved the Department’s request to publish this notice of proposed rulemaking

DEPARTMENT OF LAW ENFORCEMENT

Crime Laboratory Council

RULE CHAPTER TITLE:	RULE CHAPTER NO.:
Accountability	11M-4
RULE TITLES:	RULE NOS.:
Financial Administration	11M-4.001
Financial Audit	11M-4.002
Performance Survey	11M-4.003

PURPOSE AND EFFECT: The proposed repeal of Rules 11M-4.001 through 4.003, F.A.C., is necessary to eliminate administrative rules that are redundant, obsolete, or superseded by statute or rule, and to comport with the statutory requirements of Chapter 120, Florida Statutes.

SUMMARY: Pursuant to Chapter 120, Florida Statutes, housekeeping requirements Rules 11M-4.001 through 4.003, F.A.C., concerning the Florida Crime Laboratory Council accountability procedures, are repealed.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: None.

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

SPECIFIC AUTHORITY: 120.53(1), 943.03(4) FS.

LAW IMPLEMENTED: 943.356(1), 943.36(4) FS.

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

TIME AND DATE: 1:45 p.m., Monday, May 3, 1999

PLACE: Florida Department of Law Enforcement, 2331 Phillips Road, Conference Room, 3rd Floor, Quad C, Tallahassee, Florida

NOTICE UNDER THE AMERICANS WITH DISABILITIES ACT: Persons needing an accommodation to participate in any proceeding should call (850)410-7900 (voice) or (850)656-9597 (TDD), at least five working days before such proceeding.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Joe White, Program Area Legal Advisor, Florida Department of Law Enforcement, 2331 Phillips Road, Tallahassee, Florida 32308

THE FULL TEXT OF THE PROPOSED RULES IS:

11M-4.001 Financial Administration.

Specific Authority 120.53(1), 943.03(3) FS. Law Implemented 943.356(1), 943.36(4) FS. History—New 10-18-89, Repealed.

11M-4.002 Financial Audit.

Specific Authority 120.53(1), 943.03(3) FS. Law Implemented 943.356(1), 943.36(4) FS. History—New 10-18-89, Repealed.

11M-4.003 Performance Survey.

Specific Authority 120.53(1), 943.03(3) FS. Law Implemented 943.36(4) FS. History—New 10-18-89, Repealed.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Joe White, Program Area Legal Advisor, Florida Department of Law Enforcement

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Michael A. Ramage, General Counsel, Florida Department of Law Enforcement

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: On December 8, 1998, the Governor and Cabinet approved the Department's request to publish this notice of proposed rulemaking

DEPARTMENT OF REVENUE

RULE TITLE: Department Personnel Disciplinary Procedures and Standards

RULE NO.: 12-3.011

PURPOSE AND EFFECT: The creation of Rule 12-3.011, F.A.C., is necessary to comply with Final Orders entered by the Division of Administrative Hearings on July 9, 1998, in *Victor Novoa et al. v. Department of Revenue* (DOAH Case #98-1763) and in *Audrey Obinyan v. Department of Revenue* (DOAH Case #98-5279) issued on March 15, 1999, in which Administrative Law Judges determined that the Agency's internal Disciplinary Standards and Procedures and Code of Conduct must be adopted in rule form in compliance with section 120.54, Florida Statutes.

The effect of creating Rule 12-3.011, F.A.C., is to establish policies of conduct with which all employees of the Department must comply, to establish disciplinary standards, and to provide procedures for addressing violations of the disciplinary standards established in this Rule.

SUMMARY: Proposed new Rule 12-3.011, F.A.C., requires all employees of the Department of Revenue to comply with the agency's disciplinary standards. This proposed Rule contains provisions governing all employees' professional and ethical obligations, and also establishes standards and procedures which will be applied by the Department of Revenue when an employee fails to comply with the disciplinary standards.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: Since the creation of these rule provisions does not implement any new administrative

program or procedure, but instead promulgates as a rule existing agency policies, no new regulatory costs are being created. Therefore, no statement of estimated regulatory costs has been prepared.

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

SPECIFIC AUTHORITY: 20.21(1), 110.201(2), 120.536, 120.54 FS., *Victor Novoa et al. v. Department of Revenue* (DOAH Case #98-1763), *Audrey Obinyan v. Department of Revenue* (DOAH Case #98-5279).

LAW IMPLEMENTED: Art. II, s. 8, Fla. Const.; 110.1221, 110.201(2), 110.227, 110.233, Chapter 112, Part III, 838.015, 838.016, 839.23, 839.26 FS.

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

TIME AND DATE: 10:00 a.m., May 5, 1999

PLACE: Conference Room, Room B-12, Carlton Building, 501 S. Calhoun Street, Tallahassee, Florida

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Larry Green, Tax Law Specialist, Technical Assistance and Dispute Resolution, Post Office Box 7443, Tallahassee, Florida 32314-7443; telephone number (850)922-4830

NOTICE UNDER THE AMERICANS WITH DISABILITIES ACT: Persons needing an accommodation to participate in any proceeding before the Technical Assistance and Dispute Resolution Office should call (850)488-8026 (voice) or 1(800)367-8331 (TDD), at least five working days before such proceeding.

THE FULL TEXT OF THE PROPOSED RULE IS:

12-3.011 Department Personnel Disciplinary Procedures and Standards.

(1) General.

(a) This rule establishes the policy for the Department of Revenue's expectations regarding employee conduct.

(b) The Department requires all employees to familiarize themselves with all rules and regulations pertaining to their positions and duties and that the employees abide by these rules and regulations.

(c) The Department has developed a Code of Conduct, Policy Directive 1141-2, Sexual Harassment, Policy Directive 1141-3, and Dual Employment, Policy Directive 1141-6, as guides for employees as they undertake the public service that has been entrusted to them. The Department requires all employees to acknowledge receipt of these directives and to familiarize themselves with their contents and be guided by them.

(2) Purpose. This Rule establishes the procedures and standards by which the Department shall discipline employees. The disciplinary action procedures insure that the Department administers disciplinary action in accordance with applicable state and federal law, and the Disciplinary Standards promote uniformity in the type and severity of discipline administered for specified violations.

(a) Notice to Employees. The Department shall make this rule, which includes the Department's Disciplinary Action Standards, available to every employee, administrator, and supervisor.

(b) Acknowledgment of Receipt of Rule Statement. The signed acknowledgment of receipt of this Rule shall be maintained in the employee's official personnel file.

(3) Scope. The Disciplinary Action Standards set forth herein are applicable to all Department employees including OPS, probationary, Selected Exempt Service, and Senior Management Service employees. The procedures in this rule by which Department managers and supervisors shall discipline employees are applicable only to employees who have attained Career Service status in the Florida Career Service System.

(a) Failure or inability to achieve the minimum performance standards or expectations that specifically relate to an employee's duties and responsibilities does not require disciplinary action pursuant to this policy statement, but will instead be handled in accordance with section 110.227, Florida Statutes, and Chapter 60K-8, Florida Administrative Code.

(b) Employees shall be disciplined pursuant to this rule for engaging in any conduct or activity prohibited by the disciplinary action standards established herein, but occurring outside the employees' work place or work hours, only when:

1. The offense has a direct relationship to the employee's ability to perform his or her assigned duties;

2. The violation relates to the employee's credibility, trustworthiness, or integrity; or

3. The nature of the violation is such that it involves activities performed outside of the employee's Department assigned workdays and hours, such as unauthorized dual employment, personal relationship with taxpayer or client, and activities that are prohibited by law.

(4) Definitions.

(a) "Counseling" means a verbal discussion between the supervisor and employee wherein the supervisor shall identify the standard(s) of conduct that the employee may have violated and the employee's act(s) or conduct that may have violated the standard(s). Counseling is intended to remind employees that violation(s) of the Department's standard(s) of conduct will result in disciplinary action in accordance with this rule. However, counseling is not considered disciplinary action for the purpose of progressive or cumulative discipline, nor is it required prior to administering disciplinary action in accordance with this rule.

(b) "Oral reprimand" means a verbal discussion between the supervisor and the employee wherein the supervisor shall identify the standard(s) of conduct that the employee violated, the employee's act(s) or conduct that violated the standard(s), including date(s), time(s), and place(s), where applicable, the corrective action required, and a warning that future violations will result in more severe disciplinary action in accordance with this rule.

(c) "Written reprimand" means a written memorandum to the employee identifying the standard(s) of conduct that the employee violated, the employee's act(s) or conduct that violated the standard(s), including date(s), time(s), and place(s), where applicable, the corrective action required, and a warning that future violations will result in more severe disciplinary action in accordance with this rule.

(d) "Suspension" means placing an employee on leave without pay status and that the employee is relieved of all duties and compensation for a specified period of time.

(e) "Reduction in pay" means decreasing an employee's base salary which usually, but not always, is associated with reassignment of the employee's duties and responsibilities, reclassification of the employee's position, or demotion of the employee. It is not a reduction in pay when an employee is demoted prior to attaining permanent status in a higher class and his or her salary is reduced to the same pay it would have been had the employee not been promoted.

(f) "Demotion" means removing an employee from his or her designated position and placing him or her into another position, which is in a different class, in a lower pay-grade, and has less responsibility. The Department of Management Services can determine that a certain position that does not appear to meet the above criteria is in fact a demotion in accordance with Rule 60K-4.0021, F.A.C.

(g) "Dismissal" means permanently separating the employee from the Department resulting in termination of employment.

(h) "Cumulative discipline" means a systematic approach to discipline in which prior similar offenses for which an employee has been disciplined are used to determine the severity of the action to be taken for a current offense(s) even though the prior offense(s) may not be the same as the current offense.

(i) "Progressive discipline" means a systematic approach to discipline in which the penalty for violation of a conduct standard increases in severity each time an employee repeats a violation of the same disciplinary offense.

(j) "Occurrence," as in "first occurrence," means the "first" time an employee's acts or behaviors may be disciplined for having violated a disciplinary action standard. Some disciplinary action standards establish a minimum number of repeated acts that constitute a single violation or "occurrence" of an offense. For example an employee has not violated the

disciplinary action prohibiting Tardiness/Leaving Early, unless he or she has committed three separate incidents of unauthorized late arrival or early departure in a 30-day period.

(k) "Personnel Officer" means the Human Resource Services Process Manager, who is the Department's primary Personnel Officer, and his or her designee. Superiors to the Human Resource Services Process Manager in the Administrative Services Program or Executive Support may also perform the Personnel Officer functions addressed in this rule.

(l) "Convicted" and "conviction" for the purposes of this Rule mean an adjudication of guilt by a court of competent jurisdiction; a plea of guilty or of nolo contendere (no contest); a verdict of guilty when adjudication of guilt is withheld; or entering into a pretrial intervention (PTI) program, diversionary program, or any other similar deferral program regardless of whether court appearance was necessary.

(5) Authority, Procedures, and Documentation Required to Administer Disciplinary Action. The immediate supervisor has the primary responsibility for taking or requesting that disciplinary action be taken against an offending employee, in accordance with the procedures and delegation of authority established herein.

(a) Counseling and Oral Reprimand. All Department administrators and supervisors are authorized where deemed necessary and appropriate to counsel and issue oral reprimands to their employees. The administrator or supervisor shall document the date, time, and subject of all counseling sessions and oral reprimands in the format proscribed by the Human Resource Services Process and shall instruct the employee to review, comment, and sign the document. If the employee refuses to sign, the supervisor shall indicate the employee's refusal to sign on the document. The supervisor shall provide the employee a copy of all counseling and oral reprimand documentation, shall retain a copy, and shall forward a copy to the Human Resource Services Process for inclusion in the employee's official personnel file.

(b) Written Reprimand. All Department administrators and supervisors are authorized to issue written reprimands to their employees but only with the approval of the employee's Program Director. The Program Director must consult with the Human Resource Services Process and the General Counsel's Office in determining that a written reprimand is the appropriate discipline. The reprimand shall be provided to the employee for review, comment, and signature acknowledging receipt. If the employee refuses to sign the written reprimand, the supervisor shall indicate in writing on the reprimand the employee's refusal to sign. The supervisor shall provide the employee a copy of the Reprimand, shall retain a copy, and shall forward the original signed copy to the Human Resource Services Process for inclusion in the employee's official personnel file.

(c) Suspension, Reduction in Pay, Demotion, and Dismissal. Disciplinary action to suspend, demote, or dismiss an employee, or to reduce an employee's base salary, may only be effected by the Human Resource Services Process Manager or designee, with the recommendation of the employee's Program Director after consultation with the Human Resource Services Process and the General Counsel's Office.

(d) Notice of Proposed Action: Demotion and Reduction in Pay. The Department shall provide the employee written notification of the proposed action by certified mail-return receipt requested or by hand delivery at or prior to the effective date of the proposed demotion or reduction in pay of any permanent career service employee. If the Notice of Proposed Action is provided by hand delivery, the deliverer shall instruct the employee to acknowledge receipt of the Notice with his or her signature and the date received. If the employee refuses to acknowledge receipt of the Notice, the deliverer shall sign and date the Notice and shall indicate the employee's refusal to do so. A mailed notice shall constitute full and complete notice, even if the mail is refused or ignored by the employee. The notice shall include:

1. The date the agency proposes to take final action;
2. The specific charges or reasons for the action;
3. The identification of any documents on which the charges are based;
4. A statement advising the employee that he or she may request a predetermination conference in order to make an oral or written statement or both to the Department to refute or explain the charges. The notice shall give the name, address, and telephone number of the Human Resource Services Process Manager. The notice shall advise the employee that the predetermination conference will be held prior to the effective date of the action at a time and place determined by the Department;

5. A statement that the Department is sincere in its desire to reduce the risk of error in taking disciplinary action against the employee, and to avoid any wrongful damage to the employee's reputation by untrue or erroneous charges, and that the Department is sincerely interested in receiving and considering the employee's response;

6. A copy of Rule 60K-9.005, F.A.C.

(e) Notice of Proposed Action: Suspension and Dismissal. The Department shall provide the employee written notification of the proposed action by certified mail-return receipt requested or by hand delivery at least 10 calendar days prior to the proposed suspension or dismissal of any permanent career service employee. If the Notice of Proposed Action is provided by hand delivery, the deliverer shall instruct the employee to acknowledge receipt of the Notice with his or her signature and the date received. If the employee refuses to acknowledge receipt of the Notice, the deliverer shall sign and date the Notice and shall indicate the employee's refusal to do

so. A mailed notice shall constitute full and complete notice, even if the mail is refused or ignored by the employee. The notice shall include:

1. The date the agency proposes to take final action;
2. The specific charges or reasons for the action;
3. The identification of any documents on which the charges are based;
4. A statement advising the employee that he or she may, within 5 workdays of receipt of the notice, submit a request in writing for a predetermination conference in order to make an oral or written statement or both to the Department to refute or explain the charges. The notice shall give the name, address, and telephone number of the Human Resource Services Process Manager. The notice shall advise the employee that the predetermination conference will be held prior to the effective date of the action at a time and place determined by the Department;
5. A statement that the Department is sincere in its desire to reduce the risk of error in taking disciplinary action against the employee, and to avoid any wrongful damage to the employee's reputation by untrue or erroneous charges, and that the Department is sincerely interested in receiving and considering the employee's response; and
6. A copy of applicable Rules 60K-9.0041 through 60K-9.0045, F.A.C.

(f) Period Between Notice and Final Action. During the period between receipt of the Notice of Proposed Action and the effective date of the action, the employee shall be expected to perform the usual duties of the position without disruption, but may be, at the discretion of management, temporarily reassigned to a different location, different duties, or both. An employee who is under investigation for violation of any statute or rule may also be reassigned, or if under formal investigation for violations for which dismissal is a penalty, may be placed on administrative leave not to exceed 20 calendar days, as authorized in Chapter 60K-5, F.A.C.

(g) Predetermination Conference for Suspension and Dismissal. If timely requested by the employee pursuant to the instructions included in the Notice of Proposed Action, the Department shall hold a predetermination conference allowing the employee to submit oral or written statements, or both, to the agency to refute or explain the charges. Such a conference may be held in person or by telephone, and shall include the Human Resource Services Process Manager or designee, the employee and his or her authorized representative, if any, and the supervisor or administrator responsible for the proposed disciplinary action. The Department shall consider any oral or written information submitted during the conference, or later when agreed upon, in deciding whether to proceed with the proposed disciplinary action or to amend the proposed action.

(h) Notice of Final Action. As provided by Rule 60K-9.0044, F.A.C., an employee shall be given written notification of the Department's decision to proceed with a

suspension or dismissal by certified mail or hand delivery within five (5) workdays from the date the action is effective. Notice of demotion or reduction in pay shall be in the same manner but need only be delivered before the effective date of demotion or reduction in pay. The notice shall advise the employee of his or her appeal rights with the following statement:

1. A Career Service employee has the right to appeal this action to the Public Employees Relations Commission. Any request for appeal must be received by Public Employees Relations Commission within 14 calendar days from the date of receipt of the notice. A copy of Rule 60K-9.005, Florida Administrative Code, Appeals to Public Employees Relations Commission, shall be attached.

2. If the Career Service employee is in a position subject to a collective bargaining agreement, the notice of final action shall also advise the employee of grievance rights under section 447.401, Florida Statutes, with the following statement:

3. A Career Service position included in a certified bargaining unit covered by a collective bargaining agreement, may, in an alternative to a Public Employees Relations Commission appeal, utilize the unit's grievance procedure under section 447.401, Florida Statutes. However, an employee must elect at the outset whether to file a grievance under the collective bargaining agreement, or an appeal to Public Employees Relations Commission, but not both.

4. Acknowledgment of receipt of delivery of the Notice of Final Action shall be in the same manner as required for the Notice of Proposed Action described in (d) and (e) above.

(6) Extraordinary Action.

(a) As provided by Rule 60K-9.0046, F.A.C., in extraordinary situations where the retention of a permanent Career Service employee would result in damage to property, would be detrimental to the best interest of the State, or would result in injury to the employee, a co-worker, or some other person, the Executive Director or the Human Resource Services Process Manager may immediately suspend or dismiss the employee, provided that the Executive Director or Human Resource Services Process Manager provides the employee written or oral notice of the action, the charges and supportive evidence necessitating the action, and an opportunity to explain or refute the charges prior to his or her suspension or dismissal.

(b) If the Executive Director or Human Resource Services Process Manager proceeds with the suspension or dismissal of the employee, he or she shall, within 5 workdays from the date the action is effective, advise the employee of his or her right to appeal the action to the Public Employees Relations Commission or to file a grievance under their collective bargaining contract, if applicable. This notice shall be in writing and shall be hand delivered or mailed by certified mail-return receipt requested to the employee.

Acknowledgment of receipt of delivery of the Notice of Appeal or grievance rights shall be in the same manner as required for the Notice of Proposed Action described above.

(7) Guidelines For Administering Disciplinary Action.

(a) The Disciplinary Action Standards are to be applied in both a progressive and cumulative manner. The disciplinary action administered for each occurrence of an offense shall normally be the least severe action recommended. Where a range of disciplinary actions is recommended for a specified occurrence of an offense, the Department shall consider the following factors:

1. The nature and severity of the employee's violation(s) (including concurrent and previous violations);
2. The impact of the violation(s) upon the ability of the employee and/or his or her co-workers to perform their assigned duties;
3. The overall work record of the employee;
4. Which disciplinary action will modify or correct the employee's behavior to assist him or her to become a more valuable resource to the Department.

(b) Transfer or layoff of a Department employee, even though appealable to the Public Employees Relations Commission, are not forms of discipline.

(8) Disciplinary Action Standards.

(a) Attendance, Leave, and Performance of Duty.

1. Absence Without Authorized Leave. Employees shall obtain approval from their immediate supervisor prior to any absence from work. In the case of an illness or emergency where an employee must be absent prior to receiving approval from his or her immediate supervisor, employees shall notify their immediate supervisor and explain the circumstances necessitating their absence at the earliest possible time after becoming aware of the illness or emergency. Employees shall state the circumstances or situation necessitating their absence from work in a truthful manner, and no employee shall fail or refuse to report to work on any day for which an employee requested authorized leave, but such request was denied. Failure to report to work or leave work within two (2) hours of the beginning or ending of the workday or which exceeds the lunch or break periods for more than two (2) hours, all without approval.

- | | |
|-----------------------------|------------------------------------|
| <u>a. First Occurrence</u> | <u>Oral Reprimand to Dismissal</u> |
| <u>b. Second Occurrence</u> | <u>Suspension to Dismissal</u> |
| <u>c. Third Occurrence</u> | <u>Dismissal</u> |

2. Confidentiality. No employee shall disclose to anyone, or use, any information that is not available to the general public that was obtained as a result of employment with the Department. Employees shall not access or review any specific tax or Child Support Enforcement account or information for any non-official purpose. No employee may use or disclose information obtained as a result of employment with the Department if it would place the employee or recipient in an advantageous position over the general public and thus

constitute a violation of the public trust. Examples of violations of this standard include disclosing the existence of an audit or investigation, or audit or investigative techniques and strategies, to anyone, including the subject taxpayer or client, outside of the official lines of communication. Such information may be included in an official form, officially recognized conference, or correspondence by the employee assigned to an investigation or audit or who subsequently reviewed it.

- | | |
|-----------------------------|--------------------------------|
| <u>a. First Occurrence</u> | <u>Suspension to Dismissal</u> |
| <u>b. Second Occurrence</u> | <u>Dismissal</u> |

3. Excessive Absenteeism. Repeated absences on the day preceding or following the employee's regular days off, repeated absences on the same day of each week or month, or that otherwise establishes a pattern of absenteeism shall be considered excessive, regardless of whether such absences were authorized by an immediate supervisor based on the employee's reported illness or emergency. Employees shall not deplete their accrued hours of leave or take leave in excess of their leave balance without approval from their supervisor.

- | | |
|-----------------------------|----------------------------------|
| <u>a. First Occurrence</u> | <u>Oral to Written Reprimand</u> |
| <u>b. Second Occurrence</u> | <u>Suspension to Dismissal</u> |
| <u>c. Third Occurrence</u> | <u>Dismissal</u> |

4. Insubordination. No employee shall refuse or fail to comply with a reasonable order, request for information, request for cooperation, or work assignment given by an immediate or higher-level supervisor.

- | | |
|-----------------------------|---------------------------------------|
| <u>a. First Occurrence</u> | <u>Written Reprimand to Dismissal</u> |
| <u>b. Second Occurrence</u> | <u>Suspension to Dismissal</u> |
| <u>c. Third Occurrence</u> | <u>Dismissal</u> |

5. Leaving Work Station/Area Without Authorization. While at work, employees shall not leave their assigned work station/area or duty assignment without being properly relieved or without getting prior permission from an appropriate supervisor.

- | | |
|-----------------------------|------------------------------------|
| <u>a. First Occurrence</u> | <u>Oral Reprimand to Dismissal</u> |
| <u>b. Second Occurrence</u> | <u>Suspension to Dismissal</u> |
| <u>c. Third Occurrence</u> | <u>Dismissal</u> |

6. Loafing. Employees shall remain productive while performing their assigned duties or tasks during work hours, and shall not be idle, waste time, engage in idle talk or gossip.

- | | |
|-----------------------------|------------------------------------|
| <u>a. First Occurrence</u> | <u>Oral Reprimand to Dismissal</u> |
| <u>b. Second Occurrence</u> | <u>Suspension to Dismissal</u> |
| <u>c. Third Occurrence</u> | <u>Dismissal</u> |

7. Negligence. Employees shall be disciplined for committing any act that is considered negligent as described herein. Negligence is the failure to use ordinary or reasonable care in, or the omission of or inattention to, the performance of assigned duties and responsibilities. Negligence is synonymous with carelessness and signifies lack of care, caution, attention, diligence or discretion and may include the loss of State property and equipment. Any action that results in a violation

or nonobservance of a work rule, policy, procedure, law, or assigned duty may subject an employee to discipline for negligence pursuant to this rule.

- a. First Occurrence Written Reprimand to Dismissal
- b. Second Occurrence Suspension to Dismissal
- c. Third Occurrence Dismissal

8. Personal Business. Employees shall not conduct personal business during work hours.

- a. First Occurrence Oral Reprimand to Dismissal
- b. Second Occurrence Suspension to Dismissal
- c. Third Occurrence Dismissal

9. Political Activities. No employee shall participate in or further any political campaign while on duty, nor shall he she use or attempt to use his or her official position as an employee of the Department to influence a campaign or political activity, without written authorization, or in violation of the laws of Florida or the United States regarding political activity by public employees.

- a. First Occurrence Oral Reprimand to Dismissal
- b. Second Occurrence Suspension to Dismissal
- c. Third Occurrence Dismissal

10. Safety Practices. Employees shall adhere to or follow established safety rules or procedures while at work, including using proper safety equipment where appropriate.

- a. First Occurrence Written Reprimand to Dismissal
- b. Second Occurrence Suspension to Dismissal
- c. Third Occurrence Dismissal

11. Sleeping or Inattentiveness While on Duty. Employees shall remain awake or sufficiently alert to perform assigned duties during work hours.

- a. First Occurrence Written Reprimand to Dismissal
- b. Second Occurrence Suspension to Dismissal
- c. Third Occurrence Dismissal

12. Solicitation/Distribution. No employee shall solicit other employees, for any purpose not specifically authorized by the State, while either employee is on duty, including unauthorized distribution of material, or otherwise violate any provision of Chapter 60K-16, F.A.C.

- a. First Occurrence Oral Reprimand to Dismissal
- b. Second Occurrence Suspension to Dismissal
- c. Third Occurrence Dismissal

13. Striking or Related Concerted Activity. No employee shall engage in any concerted action involving refusal or failure of employees to report for duty; the concerted absence of employees from their positions; the concerted stoppage of work by employees; the concerted abstinence in whole or in part by any group of employees from the full and faithful performance of the duties of employment with a public employer for the purpose of inducing, influencing, condoning, or coercing a change in the terms and conditions of employment or the rights, privileges, or obligations of public employment, or participate in a deliberate and concerted course

of conduct which adversely affects the services of the public employer; the concerted failure of employees to report to work after the expiration of a collective bargaining agreement; or in picketing in furtherance of a work stoppage.

- a. First Occurrence Suspension to Dismissal
- b. Second Occurrence Dismissal

14. Suspension or Revocation of Driver's License. Employees who drive vehicles to perform their job duties and responsibilities shall report any suspension or revocation of their driver's license to an appropriate supervisor within three (3) workdays of the order of suspension or revocation.

- a. First Occurrence Oral Reprimand to Dismissal
- b. Second Occurrence Suspension to Dismissal
- c. Third Occurrence Dismissal

15. Tardiness/Leaving Early. Employees shall timely report to work, return to work after a lunch or break periods and leave work at their scheduled time unless authorization is obtained from their immediate supervisor. The failure to timely report to work, return to work, or to leave work early three or more times within 30 calendar days shall be disciplined as tardiness/leaving early.

- a. First Occurrence Oral to Written Reprimand
- b. Second Occurrence Suspension to Dismissal
- c. Third Occurrence Dismissal

(b) Child Support and Taxpayer Obligation.

1. Violation of State or Federal Tax Law. No employee shall fail or refuse to fully comply with any State or Federal tax filing or record-keeping requirement, or fail or refuse to pay taxes assessed when due under any State or Federal tax laws and rules.

- a. First Occurrence Written Reprimand to Dismissal
- b. Second Occurrence Dismissal

2. Failure of Employee to Maintain Child Support Obligation. No employee shall fail or refuse to fully comply with any court order involving child support.

- a. First Occurrence Written Reprimand to Dismissal
- b. Second Occurrence Dismissal

(c) Workplace Conduct, Behavior, and Activities.

1. Abuse or Harassment of Other Employees. No employee shall utter any derogatory, disparaging, derisive, or other belittling or insulting verbal remark, or make any similar physical gesture, which is intended to, or can be construed to, insult, denigrate, malign, or besmirch another employee based on his or her gender, race, religious affiliation, national origin, age, marital status, or disability, and which is offensive and objectionable to the recipient, regardless of whether the recipient files a complaint.

- a. First Occurrence Oral Reprimand to Dismissal
- b. Second Occurrence Suspension to Dismissal
- c. Third Occurrence Dismissal

2. Alcohol or Drug Use.

a. Prohibited at Workplace. No employee shall possess, use, sell, transfer, or distribute alcohol, controlled substances or chemicals, illegal or unauthorized prescription or non-prescription drugs, or narcotics while on duty or during work hours. Neither shall any employee report to work while using, or under the influence of alcohol, controlled substance, or illegal or unauthorized prescription or non-prescription drugs or narcotics.

- I. First Occurrence Suspension to Dismissal
- II. Second Occurrence Dismissal

b. Policy on Abuse of Alcohol and Drugs. By resolution dated July 17, 1993, the Governor and Cabinet declared that alcoholism shall be recognized as a health problem and treated as such, with no attempt to hide the diagnosis or disease. An employee who drinks, consumes, or uses alcohol or drugs to the extent that his or her work performance is affected or impaired, has an alcohol or substance abuse problem. Therefore, employees who exhibit evidence of an alcohol or substance abuse problem, regardless of whether the employee has violated the above provision regarding possession, use, and sale of alcohol and controlled substances or chemicals while on duty and during work hours, shall be referred to the Employee Assistance Program for counseling and rehabilitation. Employees who fail or refuse to recognize that they have an alcohol or drug use problem, who fail or refuse to cooperate with prescribed treatment program(s), or are unruly or commit a breach of peace while under the influence of alcohol or drugs may be disciplined as follows.

- I. First Occurrence Written Reprimand to Dismissal
- II. Second Occurrence Suspension to Dismissal
- III. Third Occurrence Dismissal

3. Conduct Unbecoming a Public Employee. No employee shall engage in any conduct which adversely affects the morale or efficiency of the Department or the Department's ability to carry out its assigned mission, or which has a tendency to destroy public respect or confidence in the Department, in its employees, or in the operation of Departmental services. Nor shall any employee engage in any act or activity, on the job or connected with the job, which violates accepted standards of decency or morality or which violates generally accepted standards of conduct or conduct, whether on or off the job, that adversely affects the employee's effectiveness within the Department, or his or her ability to continue to perform his or her job. Conduct unbecoming a public employee includes any action or conduct that brings discredit to the Department.

- a. First Occurrence Written Reprimand to Dismissal
- b. Second Occurrence Suspension to Dismissal
- c. Third Occurrence Dismissal

4. Discourteous or Rude Conduct Toward the Public. Employees shall be disciplined for committing any act which is discourteous or rude to the public.

- a. First Occurrence Written Reprimand to Dismissal
- b. Second Occurrence Suspension to Dismissal
- c. Third Occurrence Dismissal

5. Disruptive Conduct.

a. Employees shall be disciplined for committing any behavior or act that interferes with the employee's performance of duty or the ability of others to perform their work. Disruptive conduct includes speaking loudly, rudely, or contemptuously to co-workers, supervisors or others; slamming office doors or drawers; throwing objects; banging on walls or doors; or otherwise causing a disturbance which is detrimental to the work environment. Abusive language to any employee or supervisor, or openly making or publishing false, vicious, or malicious statements concerning other employees or supervisors may be considered disruptive conduct.

b. Any outward challenge of supervisory criticism such as abusive, hostile or disrespectful conduct; any showing of contempt for, threat, intimidation, harassment, coercion, or any act which indicates an intent to flout authority that is directed at or about an employee's supervisor is also disruptive conduct subject to discipline.

- I. First Occurrence Oral Reprimand to Dismissal
- II. Second Occurrence Suspension to Dismissal
- III. Third Occurrence Dismissal

6. Falsification of Records or Statements. No employee shall misrepresent, falsify or omit any facts in any record required to be submitted to the Department, or otherwise provide fraudulent or misleading information to the Department. Records include, but are not limited to Employment Applications; Employee Attendance and Leave Reports; Criminal Record Check Forms; Travel Vouchers; Requests for Reimbursements; questions, answers, or results of any educational course or training program undertaken by the employee, whether required or voluntary; and other records of, made, or received by the Department of Revenue and the State of Florida.

- a. First Occurrence Written Reprimand to Dismissal
- b. Second Occurrence Dismissal

7. Fighting. No employee shall assault or batter another person while on the job. Injury, or risk of injury, to any employee shall increase the severity of the disciplinary action.

- a. First Occurrence Written Reprimand to Dismissal
- b. Second Occurrence Dismissal

8. Filing a False Complaint or Grievance. No employee shall file any complaint or grievance regarding another employee with the knowledge that the information contained in the complaint or grievance is untrue or unfounded.

- a. First Occurrence Oral Reprimand to Dismissal
- b. Second Occurrence Suspension to Dismissal
- c. Third Occurrence Dismissal

9. Gambling. No employee shall take, make, or receive any bet or wager upon the result of any trial, contest, casualty or contingent event, while on the job.

- a. First Occurrence Written Reprimand to Dismissal
- b. Second Occurrence Suspension to Dismissal
- c. Third Occurrence Dismissal

10. Horseplay. Employees shall be disciplined for committing any act, which is horseplay as described herein. Horseplay is any non-work-related activity that is intended to be mischievous or prankish, but not malicious. Injury, or risk of injury, to any employee shall increase the severity of the disciplinary action.

- a. First Occurrence Oral Reprimand to Dismissal
- b. Second Occurrence Suspension to Dismissal
- c. Third Occurrence Dismissal

11. Identification as Department Employee. No employee shall use his or her name, photograph, or title, which identifies him or her as an employee of the Department in connection with any testimonials, advertisements, commercial enterprise, charity or other public uses without the written approval of the Department.

- a. First Occurrence Oral Reprimand to Dismissal
- b. Second Occurrence Suspension to Dismissal
- c. Third Occurrence Dismissal

12. Interfering in an Investigation. No employee shall interfere with any Department investigation by: failing or refusing to appear, cooperate, or answer any question or questions; failing or refusing to provide requested information or cooperate in an investigation, or to completely and accurately answer questions in an internal investigation; or failing or refusing to give truthful information. This includes any attempt to interfere with an investigation by: lying, or providing any oral or written statements that are inaccurate, incorrect, incomplete or misleading; a material omission; coercion of witnesses or parties; withholding or destroying evidence or any other material facts or tangible items that would be relevant to the investigation. An investigation includes any criminal or administrative investigation by a law enforcement agency, or any administrative investigation by the Department pursuant to its duties and responsibilities.

- a. First Occurrence Written Reprimand to Dismissal
- b. Second Occurrence Suspension to Dismissal
- c. Third Occurrence Dismissal

13. Offensive, Profane, Abusive, or Threatening Language. No employee shall use any language that is offensive, profane, threatening, or abusive regardless of whether such language is directed toward a supervisor, another State employee, the public, or no one in particular. This standard prohibits swearing, profanity, obscenities, and other foul language that is inappropriate for the workplace.

- a. First Occurrence Written Reprimand to Dismissal
- b. Second Occurrence Suspension to Dismissal
- c. Third Occurrence Dismissal

14. Sabotage. No employee shall participate in any act of destruction or attempted destruction of State property, equipment, materials, records, or files which is directed towards undermining Departmental operations or the effectiveness of other employees. Neither shall any employee introduce fraudulent records into a computer system, equipment or facility, or otherwise alter or destroy any Department computerized information or files.

- a. First Occurrence Suspension to Dismissal
- b. Second Occurrence Dismissal

15. Sexual Harassment. No employee shall perform, express, or exhibit any unwelcome sexual advances, request for sexual favors, or other verbal or physical conduct of a sexual nature when:

- a. Submission to such conduct is made, whether explicitly or implicitly, a term or condition of employment;
- b. Submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individuals; or
- c. When such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile, or offensive working environment. This also includes retaliation, filing a false complaint, or failure of a supervisor to report sexual harassment, and any other violation of Department Policy Statement 1141-3, Sexual Harassment.

- I. First Occurrence Written Reprimand to Dismissal
- II. Second Occurrence Suspension to Dismissal
- III. Third Occurrence Dismissal

16. Signatures. No employee shall, without express delegated authority, place, direct the placing, or falsely represent to another person, what purports to be the signature of another person on any form, document, paper, letter, memorandum or other written instrument made or received by the Department in connection with the transaction of its official business.

- a. First Occurrence Written Reprimand to Dismissal
- b. Second Occurrence Suspension to Dismissal
- c. Third Occurrence Dismissal

17. Use of State Property and Equipment. No employee shall use any State property or equipment for any reason other than for official State business without proper authorization. Employees shall not abuse or misuse, damage or destroy any State property or equipment. This includes failure to adequately secure or care for State property, and any improper and/or careless use, abuse, or misuse of State property or equipment including State rental vehicles. State property includes any computers, networks and equipment owned or leased to the State.

- a. First Occurrence Oral Reprimand to Dismissal
- b. Second Occurrence Suspension to Dismissal
- c. Third Occurrence Dismissal

18. Theft or Stealing. No employee shall take or use any materials, records, files, currency, or property of the Department, the State, other employees, or the public, without proper authorization.

- a. First Occurrence Suspension to Dismissal
- b. Second Occurrence Dismissal

19. Weapon. No employee shall brandish, threaten to use, or improperly display a weapon or firearm. "Weapon" means any device or instrument which is designed, redesigned, used or intended to be used for offensive or defensive purposes, the destruction of life or the infliction of bodily injury, including firearms, knives, bombs, explosives, mace and pepper gas, and/or other dangerous chemicals or instruments.

- a. First Occurrence Suspension to Dismissal
- b. Second Occurrence Dismissal

(d) Outside Employment and Activities, Gifts, and Conflicts of Interest.

1. Conflict of Interest. Employees have an obligation to scrupulously avoid the potential conflicts of interest which may exist in their employment and have a duty to disclose and report promptly the existence or possible existence of a conflict of interest to the agency head or designee. Employees shall:

a. Not accept or agree to accept any form of compensation or consideration other than salary from the Department except for authorized or sanctioned awards, for:

I. Any services rendered as part of their job with the Department of Revenue;

II. Any part in a proceeding, contract, claim, controversy, change, or other matter in which the Department or any governmental agency regulated by the Department is directly or indirectly interested.

b. Not participate in any business being transacted with the Department by any private concern in which the employee, spouse, or minor children have a financial or beneficial interest.

c. Not act as an agent, attorney, accountant, bookkeeper, factor, or representative in any tax or child support matter before any governmental, judicial or quasi-judicial body without the express authority of the Executive Director or the Executive Director's designee or by order of a court of law.

d. Not directly or indirectly solicit, accept, or agree to accept for the employee, another person, or entity anything of value to influence the employee in the performance of the job.

e. Not infer or allow to be inferred representation of the Department of Revenue in any situation, which is not related to official duties.

f. Not show through word or action any preferential attitude or treatment to any person, group, or other entity in the performance of official duties.

g. Not refer a taxpayer or child support custodial or noncustodial parent to an attorney, accountant, tax practitioner, or firm specifically by name or implication in connection with any official business involving the Department of Revenue.

h. Request from their supervisors the transfer from their case load of any case which involves a family member, close friend, or any person or entity with whom that person has some personal or financial involvement.

- I. First Occurrence Suspension to Dismissal
- II. Second Occurrence Dismissal

2. Gifts and Gratuities from Outside Sources

a. General Limitations. Employees shall not solicit or accept, directly or indirectly, any gift, gratuity, favor, entertainment, loan, or any other thing of monetary value, from a person who or entity which:

I. Has or is seeking to obtain contractual or other business or financial relations with the Department of Revenue;

II. Conducts business or other activities which are regulated or monitored by the Department of Revenue, except as permitted by this section or by departmental directives; or

III. Has interests that may be, or give the reasonable impression of being, substantially affected by the performance or nonperformance of the employee's official duties.

b. Exceptions:

I. Gifts or gratuities from an obvious family member or personal relationship, when the circumstances make it clear that those relationships, rather than the business or the persons concerned, are the motivating factors behind any gift or gratuity;

II. Food, refreshments, lodging, and other travel expenses on nonrecurring occasions from various civic and professional organizations for participation in meetings, workshops and seminars for educational, informational and other similar purposes;

III. Loans from banks or other financial institutions on customary terms to finance proper and usual activities of employees, such as home mortgage loans, automobile loans, personal loans, etc.;

IV. Unsolicited advertising or promotional material, such as pens, pencils, note pads, calendars, and other items of nominal value;

V. An award or gift of nominal value for a speech, participation in a conference, or some public contribution or achievement given by a charitable, religious, professional, social, fraternal, educational, recreational, public service or civic organization.

VI. Reimbursement, in cash or in kind, for travel, subsistence and other expenses incidental to attendance at meetings, provided such attendance and reimbursement is approved by the Executive Director or the Executive Director's designee. An employee on official business may not be reimbursed, and payment may not be made on his or her

behalf, for excessive (e.g., reimbursement which exceeds actual cost) personal living expenses, gifts, entertainment, travel or other benefits. At no time will an employee accept reimbursement from both the state and another source for the same expenses.

- (A) First Occurrence Oral Reprimand to Dismissal
- (B) Second Occurrence Suspension to Dismissal
- (C) Third Occurrence Dismissal

3. Outside Employment, Contracts and Business Activity.

a. Generally. Because of the sensitive nature of the mission of the Department of Revenue and the importance of maintaining the public's trust in the agency's integrity, there are some restrictions related to outside employment of the Department's personnel. For further information, refer to Rule 60K-2.016, 60K-15, and 60L-26, F.A.C. and the Department's Dual Employment Policy 1141-6. The Department requires an employee to obtain approval before accepting any outside employment or certain other responsibilities. Outside employment will be denied whenever its nature would be considered a conflict of interest with the employee's duties in the Department of Revenue or gives the appearance of a conflict with the Department's mission.

b. Activities Which Do Not Require Prior Notice:

I. Membership and uncompensated services (including holding of office) in civic, scout, religious, educational, fraternal, social, community, veterans, or charitable organizations. Bookkeeping services provided to such organizations require prior written approval;

II. Services as a notary public or equivalent position in another state;

III. Rental of employee-owned property, real or personal, to the extent such property is not rented to the State of Florida or any agency or subdivision thereof, or the lessee is not a subject of the employee's official duties;

IV. Minor services and odd jobs for friends, relatives, or neighbors, including a wide variety of activities: repair or maintenance work such as painting, yard work, carpentry, or services such as baby-sitting and car-pools involving payment for transportation;

V. Temporary (thirty days or less) assistance in a family enterprise, in the event of an emergency, such as the death or serious illness/accident to a member of the family engaged in that business;

VI. However, no employee shall, without appropriate disclaimer stating that the employee does not speak for the Department, take an active part or become an advocate on behalf of a professional society in any conflict of interest between such society and the Department of Revenue.

c. Outside Legal or Accounting Practice Prohibitions:

I. No outside legal or accounting practice is permitted which is in violation of Chapter 112, Part III, F.S. Specifically, employees are prohibited from receiving compensation from or

acting as agent or attorney for anyone having a substantial interest in any particular matter in which the Department is a party or has a direct and substantial adverse interest.

II. Managerial employees are prohibited from engaging in outside legal or accounting practices for which they receive compensation.

III. Employees who hold Attorney and Senior Attorney positions shall not engage in the outside practice of law except Pro Bono activities through the Tallahassee Bar Association or North Florida Legal Services or similar pro bono programs. In no event shall an employee holding an Attorney or Senior Attorney position appear in court as an attorney on behalf of a private client for a fee. No state equipment or supplies can be utilized to fulfill Pro Bono activities. All approved pro bono activities must be performed off duty.

IV. The employee must give written notice of outside legal or accounting practice to the Executive Director or the Executive Director's designee.

d. Outside Legal or Accounting Practices Exceptions. An employee may:

I. Render uncompensated legal or accounting service to family members, provided the service is not a conflict of interest and does not include representation of family members before the Department of Revenue, a state administrative agency or in the courts of the State where the State is a party.

II. During off duty hours with or without compensation, exercise a power of attorney, act as trustee, guardian, conservator, executor, administrator and/or act as a resident agent for immediate family members (employee's brothers or sisters and step brothers or sisters, parents, step parents, spouse, children, and step children) unless prohibited by Chapter 112, Part III, F.S.

III. With written notice to the Executive Director or the Executive Director's designee, during off duty hours with or without compensation: exercise a power of attorney, act as trustee, guardian, conservator, executor, administrator and/or act as a resident agent for other relatives as defined in Section 112.3135, F.S.

IV. With prior written approval from the Executive Director or the Executive Director's designee, act as bookkeeper or accountant without compensation, for a civic, scout, religious, educational, fraternal, social, community, veterans, and/or charitable organization.

- (A) First Occurrence Suspension to Dismissal
- (B) Second Occurrence Dismissal

4. Personal Relationships with Taxpayers or Clients. Employees shall promptly disclose or report to their supervisor the existence or potential for any conflict of interest posed by any relationship or friendship between the employee and a taxpayer/client, or employee thereof. Employees shall request a reassignment of any case that involves a family member, close friend, or any person or entity with whom they have some personal or financial involvement.

- a. First Occurrence Written Reprimand to Dismissal
- b. Second Occurrence Suspension to Dismissal
- c. Third Occurrence Dismissal

5. Speeches and Publications. Employees shall perform any speeches, or prepare, or provide any material for publication which addresses official operations or policies of the Department only with proper authorization. Any employee who is authorized to perform a speech or prepare or provide materials for publication which addresses official operations or policies of the Department, shall not accept any fee, salary, honorarium, or other compensation for such services in violation of section 110.209, F.S., and rule 60K-2.018, F.A.C. This standard does not prohibit reimbursement for transaction, travel, accommodation, or meal expenses.

- a. First Occurrence Oral Reprimand to Dismissal
- b. Second Occurrence Suspension to Dismissal
- c. Third Occurrence Dismissal

6. Tax, Child Support Enforcement Practices. Except for work done for "relatives" as defined in section 112.3135(1)(c), F.S., no employee shall perform, provide, or agree, without the express consent of the Executive Director or General Counsel to:

a. Appear on behalf of any taxpayer or Child Support Enforcement client as an attorney, agent, or representative before any state, federal, or local government agency, in any action involving a tax matter or Child Support Enforcement matter;

b. Prepare any State or Federal tax returns, reports, declarations or documents, or otherwise engage in accounting, use, analysis or interpretation of any financial records for consideration, or sign as a paid preparer on any such tax document for compensation, gift, or favor;

c. Prepare any Child Support Enforcement client reports, declarations or documents for consideration, or advise any Child Support Enforcement clients in any matter in which the Child Support Enforcement client seeks support or relief from the Department, contrary to Department rule, policy or procedure; or

d. Advertise, or hold oneself out as an attorney, or act as attorney in the private sector while employed with the Department.

- I. First Occurrence Written Reprimand to Dismissal
- II. Second Occurrence Suspension to Dismissal
- III. Third Occurrence Dismissal

7. Outside Employment as an Appraiser. Outside employment as an appraiser or consultant performing appraisal duties for a city, county or town or other political subdivision of the State is prohibited.

- a. First Occurrence Written Reprimand to Dismissal
- b. Second Occurrence Suspension to Dismissal
- c. Third Occurrence Dismissal
- (e) Criminal Charges or Conviction.

1. Prompt Reporting of Arrest and/or Charge for First Degree Misdemeanor or Felony. An employee arrested or charged with violation of any criminal law which is punishable by imprisonment for more than 60 days, and/or fines of more than \$500, shall provide a written report describing the charges to the Inspector General, within 3 work days of the date of arrest or charges filed.

- a. First Occurrence Oral Reprimand to Dismissal
- b. Second Occurrence Suspension to Dismissal

2. Prompt Reporting of Final Order/Disposition for First Degree Misdemeanor or Felony. An employee arrested or charged with violation of any criminal law which is punishable by imprisonment for more than 60 days, and/or fines of more than \$500, shall provide the Inspector General with a copy of the final order/disposition entered in such cause within 3 work days of such order/disposition being entered.

- a. First Occurrence Oral Reprimand to Dismissal
- b. Second Occurrence Suspension to Dismissal

3. Failure to Perform Work Duties as a Result of any Arrest, Charge, or Conviction of Criminal Offenses. An employee who is arrested, charged, or convicted for any violation of any law or ordinance, except minor traffic violations, for which fines or bond forfeiture does not exceed \$300, which arrest, charge, or conviction adversely affects the employee's credibility, results in the employee's failure, inability, or refusal to perform assigned work duties, or otherwise adversely affects the Department's ability to carry out its assigned mission, in any manner, shall be disciplined pursuant to this rule.

- a. First Occurrence Oral Reprimand to Dismissal
- b. Second Occurrence Suspension to Dismissal

(f) Other Violations of Law, Rules, Policies or Procedures. Employees shall abide by all State of Florida Statutes and rules, and Department of Revenue rules, policies, procedures, and directives. Disciplinary action under this standard may be administered for, including but not limited to: divulging confidential information; outside business activity; dual employment or moonlighting without permission; misuse of position; conflicts of interest; giving or accepting a bribe; discrimination in employment or illegal campaigning.

- 1. First Occurrence Oral Reprimand to Dismissal
- 2. Second Occurrence Suspension to Dismissal
- 3. Third Occurrence Dismissal

Specific Authority 20.21(1), 110.201(2), 120.54, 120.536 FS.; Victor Novoa et. al. v. Department of Revenue (DOAH Case #98-1763); and Audrey Obinvan v. Department of Revenue (DOAH Case #98-5279). Law Implemented Art. II, s.8, Fla. Const.; 110.1221, 110.201(2), 110.227, 110.233, 112, Part III, 838.015, 838.016, 839.23, 839.26 FS. History--New

NAME OF PERSON ORIGINATING PROPOSED RULE:
 Larry Green, Tax Law Specialist, Technical Assistance and Dispute Resolution, Department of Revenue, P. O. Box 7443, Tallahassee, Florida 32314-7443, telephone (850)922-4830

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Charles Strausser, Revenue Program Administrator II, Technical Assistance and Dispute Resolution, P. O. Box 7443, Tallahassee, Florida 32314-7443; telephone number (850)922-4746

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: March 22, 1999

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: Proposed Rules 12-3.011, F.A.C., was noticed for a Rule Development Workshop in the Florida Administrative Weekly on January 29, 1999 (Vol. 25, No. 4, p. 345). The workshop was held on February 16, 1999. No one appeared at the workshop to testify, and no one submitted written comments.

STATE BOARD OF ADMINISTRATION

Florida Prepaid College Board

RULE TITLES: Application
Payment Options

RULE NOS.: 19B-4.001
19B-4.003

PURPOSE AND EFFECT: To revise the Board's rules regarding when applications for advance payment contracts purchased through the Board's direct support organization or through employer participation programs may be submitted; and to make provisions for payments pursuant to employer participation agreements.

SUMMARY: This rule change provides that applications for advance payment contracts purchased through the Board's direct support organization or through employer participation programs may be submitted to the Board at any time and makes provisions for payments pursuant to employer participation agreements.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: None.

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

SPECIFIC AUTHORITY: 240.551(5) FS.

LAW IMPLEMENTED: 240.551 FS.

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

TIME AND DATE: 2:00 p.m., May 3, 1999

PLACE: Suite 210, Hermitage Building, Tallahassee, Florida
THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Thomas J. Wallace, Executive Director, 1801 Hermitage Boulevard, Suite 210, Tallahassee, Florida 32308, telephone (850)488-8514

THE FULL TEXT OF THE PROPOSED RULES IS:

19B-4.001 Application.

These rules apply to purchasers of advance payment contracts for the prepayment of postsecondary registration and/or dormitory residency fees. The application period shall commence and terminate on dates set annually by the Board and published in the Florida Administrative Weekly. Applications for advance payment contracts purchased through the Board's direct support organization, The Florida Prepaid College Foundation, Inc., or for purchasers participating in employer participation programs may be submitted to the Board at any time. After acceptance by the Board of the purchaser's application, a participation and payment schedule and master covenant shall be mailed to the purchaser. The advance payment contract shall be comprised of the application, master covenant, and participation and payment schedule. The Florida Prepaid College Program Application, Form No. FPCP 98-1 is hereby incorporated by reference and may be obtained by calling 1(800)552-GRAD (4723) (prompt 1). The effective date of the form is October 19, 1998. The Florida Prepaid College Program Master Covenant, Form No. FPCP 98-2, is hereby incorporated by reference with an effective date of October 19, 1998.

Specific Authority 240.551(5) FS. Law Implemented 240.551 FS. History--New 3-29-89, Amended 2-6-90, 3-19-92, 12-5-93, 5-31-95, 6-20-96, 10-20-96, 12-16-97, 2-18-99, Formerly 4G-4.001, Amended.

19B-4.003 Payment Options.

Purchasers may make payments through a variety of means. Automated clearinghouse checks, payroll deductions or payments via coupon books will be acceptable. State employees may elect payroll deduction from the commencement of the contract application period. Other organizations and entities may apply to the Board to establish payroll deduction plans.

(1) Payments for applications received during the application period may be made under any schedule, on such specific date as specified by the Board and advertised in the Florida Administrative Weekly. Payments are due in full within the specified dates as published in the Florida Administrative Weekly.

(2) Payments for applications received from purchasers pursuant to an employer participation agreement may be made as specified by the agreement. The payment schedule will correspond with the employer's payroll schedule.

~~(3)~~ An implied interest rate for installment payment plans will be calculated and approved by the Board and published annually in the Florida Administrative Weekly.

~~(4)~~ The Board's direct support organization, The Florida Prepaid College Foundation, Inc., may purchase advance payment contracts by providing a lump sum payment on or before March 1 of the Fall Semester of the anticipated enrollment year designated in the contract. Such payment shall be comprised of the lump sum price of the advance payment

contract plus seven and one-half percent (7.1/2%) interest compounded per annum from the date of the first payment due date.

Specific Authority 240.551(5) FS. Law Implemented 240.551 FS. History—New 3-29-89, Amended 2-6-90, 3-19-92, 6-20-96, Formerly 4G-4.003, Amended _____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
 Florida Prepaid College Board
 NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Florida Prepaid College Board
 DATE PROPOSED RULE APPROVED BY AGENCY HEAD: March 4, 1999
 DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: March 26, 1999

**STATE BOARD OF ADMINISTRATION
 Florida Prepaid College Board**

RULE TITLE: Contract Requirements
 PURPOSE AND EFFECT: To revise the Board’s rules to delete an incorrect reference to a renewal fee.
 SUMMARY: This rule change deletes an incorrect reference to a renewal fee.
 SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: None.

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

SPECIFIC AUTHORITY: 240.551(5) FS.
 LAW IMPLEMENTED: 240.551 FS.
 IF REQUESTED IN WRITING WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE HELD AT THE TIME, DATE AND PLACE SHOWN BELOW (IF NOT REQUESTED, THIS HEARING WILL NOT BE HELD):
 TIME AND DATE: 2:00 p.m., May 3, 1999
 PLACE: Suite 210, Hermitage Building, Tallahassee, Florida
 THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Thomas J. Wallace, Executive Director, 1801 Hermitage Boulevard, Suite 210, Tallahassee, Florida 32308, telephone (850)488-8514

THE FULL TEXT OF THE PROPOSED RULE IS:

19B-5.003 Contract Requirements.

(1) Purchasers must name the qualified beneficiary in the application, provided however, that the board’s direct support organization shall be permitted to leave the qualified beneficiary’s name blank until April 1 of the anticipated enrollment year.

(2) Only one qualified beneficiary is allowed per contract, and a specific beneficiary can be named in only one contract. In the event duplicate contracts for the same beneficiary are processed, the contract processed first shall be deemed valid and the remaining contract shall be deemed terminated.

(3) The purchaser does not have to designate the postsecondary institution that the beneficiary will attend.

(4) The contract may be used within three years in advance of the selected matriculation date indicated in the application with no penalty or additional cost. However, to utilize a contract prior to the selected matriculation date, the purchaser must pay the contract in full before changing such matriculation date.

(5) The benefits may be received for up to a 10 year period after the said selected matriculation date. This ten year limitation may be extended upon application to the Board ~~and the payment of a renewal fee assessed at that time.~~ Any time spent by the qualified beneficiary in the military service tolls the time for receiving contract benefits under all contract plans. The projected enrollment date shall correspond to the age/grade of the qualified beneficiary.

(6) Accounts that are composed of tuition and local fee contracts will only be paid if both the tuition account and local fee account are in good standing. Local fee payments shall not be remitted to pay tuition for any beneficiary.

Specific Authority 240.551(5) FS. Law Implemented 240.551 FS. History—New 3-29-89, Amended 2-6-90, 3-19-92, 5-31-95, 6-20-96, 2-19-99, Formerly 4G-5.003, Amended _____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
 Florida Prepaid College Board
 NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Florida Prepaid College Board
 DATE PROPOSED RULE APPROVED BY AGENCY HEAD: March 4, 1999
 DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: March 26, 1999

**AGENCY FOR HEALTH CARE ADMINISTRATION
 Certificate of Need**

RULE TITLE: Medicare Certified Home Health Agencies
 PURPOSE AND EFFECT: The agency proposes to modify the methodology used to calculate future need for Medicare-certified home health agencies in light of current statutory language that will exempt such agencies from certificate of need review after the Medicare program implements a per-episode prospective payment system; and because of evidence that an increasing number of agencies which previously received certificate of need approval are now electing not to seek certification as a Medicare provider. There are also a number of Medicare-certified agencies that have closed recently. The amendments will also modify the basis for enumerating the number of “approved” agencies. Need

projections published subsequent to amendments that were effective in April 1997 have shown minimal need for additional Medicare-certified home health agencies in Florida. The proposed amended methodology will show a greater need. SUMMARY: The amendments modify the methodology used to determine need for additional Medicare certified home health agencies.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: None prepared.

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

SPECIFIC AUTHORITY: 408.15(8), 408.034(5) FS.

LAW IMPLEMENTED: 408.036(1)(e) FS.

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

TIME AND DATE: 2:00 p.m. May 5, 1999

PLACE: Agency for Health Care Administration, 2727 Mahan Drive, Building 3, Tallahassee, Florida

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Elfie Stamm, Certificate of Need Office, 2727 Mahan Drive, Tallahassee, Florida

THE FULL TEXT OF THE PROPOSED RULE IS:

59C-1.031 Medicare Certified Home Health Agencies.

(1) Agency Intent. This rule implements the provisions of 408.034(3) and 408.036(1)(e)(f), Florida Statutes, which require the agency to develop a uniform need methodology for review of proposals to establish a Medicare certified home health agency. It is the intent of the agency to ensure the availability of home health agency services to all persons needing such services, regardless of ability to pay.

(2) Definitions.

(a) "AHCA." The Agency for Health Care Administration.

(b) "Agency Size." The fiscal year total of visits reported by a Medicare certified home health agency consistent with the requirements of subsection (8) of this rule.

(c) "Approved Agency." A proposed Medicare certified home health agency for which a certificate of need, a letter of intent to grant a certificate of need, a signed stipulated agreement, or a final order granting a certificate of need was issued, consistent with the provisions of 59C-1.008(2)(b), Florida Administrative Code, that is not yet Medicare certified as of the most recent published deadline for agency initial decisions prior to publication of the fixed need pool, as specified in paragraph 59C-1.008(1)(g), Florida Administrative Code. An agency with a granted CON is considered "approved" until it appears on the federal listing described in paragraph (h) of this subsection.

(d) "Completed Project." A project authorized by the certificate of need that has been licensed and Medicare certified and has received a unique Medicare provider number not shared with any other home health agency serving that district.

(e) "District." A health service planning district of AHCA, as defined in subsection 408.032(5), Florida Statutes.

(f) "Fixed Need Pool." The fixed need pool as defined in subsection 59C-1.002(20), Florida Administrative Code, and calculated consistent with this rule. A fixed need pool for Medicare certified home health agencies is published twice a year.

(g) "Local Health Councils." The councils referenced in section 408.033(1), Florida Statutes.

(h) "Medicare certified home health agency." For purposes of this rule, a Medicare-certified home health agency is an agency appearing on the federal listing of such agencies (the OSCAR report) as determined twice a year as of the most recent published deadline for agency initial decisions prior to publication of the fixed need pool, as specified in paragraph 59C-1.008(1)(g), Florida Administrative Code. A Medicare-certified home health agency has with a unique Medicare provider number that is not also assigned to any other home health agency serving the same that district. Each of these agencies will be counted as a separate Medicare certified home health agency in the need formula described in subsection (4), except that agencies not requiring a certificate of need pursuant to s. 408.036(3)(h), F.S., will be excluded from the need formula. A home health agency having a single Medicare provider number but operating in more than one district will be counted by AHCA as a separate Medicare certified home health agency in each district that it serves. Each agency shall submit separate utilization reports to AHCA for each district served.

(i) "Planning Horizon." The date by which a proposed new Medicare certified home health agency is expected to be certified. For purposes of this rule, the planning horizon for applications submitted between January 1 and June 30 is January 1 July 1 of the year 2 years 1 year subsequent to the year the application is submitted; the planning horizon for applications submitted between July 1 and December 31 is July 1 January 1 of the year 2 years subsequent to the year the application is submitted.

(3) General Provisions.

(a) Sale of a Medicare certified home health agency. The sale of a Medicare certified home health agency is not subject to CON review, except that a parent agency cannot sell branch offices or subunits, as defined in 42 CFR 484.2, separately from the parent agency.

(b) No Certificate of Need Required. No certificate of need approval is required for the establishment of additional offices, mail drops, branches, or subunits within the same

district, provided those additional sites relate to a provider who already operates a parent Medicare certified home health agency in that district.

(c) Service Area. A Medicare certified home health agency may serve persons anywhere within the district for which a certificate of need is awarded, provided applicable licensure and certification requirements are met. A separate application must be submitted for each district proposed to be served by the applicant. A certificate of need for the establishment of a Medicare certified home health agency ~~granted after the effective date of this rule~~ shall require a home health services provider to establish a physical presence in the district to be served.

(d) Comparative Review. Applications shall be comparatively reviewed twice a year, consistent with the batching cycles for hospitals and other projects described in 59C-1.008(1)(g), F.A.C.

(e) Conformance with Review Criteria. A certificate of need for the establishment of a new Medicare certified home health agency shall not be approved unless the applicant meets the applicable review criteria in section 408.035, Florida Statutes, and the standards and need determination criteria set forth in this rule. An application to establish a new Medicare certified home health agency shall not be approved in the absence of a numeric need indicated by the formula in subsection (4) of this rule unless the criteria in subsection (5) of this rule, subsection (2) of rule 59C-1.030, or in section 408.035, Florida Statutes, outweigh the lack of a numeric need.

(f) Quality of Care. Medicare certified home health agencies shall comply with the standards for program licensure described in Part IV of Chapter 400, Florida Statutes, Chapter 59A-8, Florida Administrative Code, and the federal standards for Medicare certification found in 42 CFR 484.

(4) Numeric Need for a New Medicare Certified Home Health Agency. Numeric need for one or more additional Medicare certified home health agencies in a district is demonstrated if the projected ~~total~~ increase in the number of visits by Medicare certified home health agencies in that district, divided by 20,000, ~~that district's median agency size~~ minus the current number of approved agencies seeking Medicare certification, equals one or greater. The net numeric need for new Medicare certified home health agencies in a district is calculated as follows:

$$NN = \frac{[(PHHV - CHHV - \underline{NEW} + \underline{NEW}) / 20,000] - MEDCHHV}{1} - AHH$$

where:

(a) NN equals the net need for additional Medicare certified home health agencies in a district.

(b) PHHV is the projected 12-month total of visits in the district. PHHV equals CHHV/CPOP x PPOP

where:

1. CHHV equals the previous fiscal year's total visits provided by Medicare certified home health agencies in the district, consistent with the requirements of subsection (8) of this rule, except that agencies exempted from certificate of need pursuant to s. 408.036(3)(h), F.S., are excluded from the CHHV value.

2. CPOP equals the population age 65 and over on July 1 of the fiscal year described above.

3. PPOP equals the projected district population age 65 and over at the beginning of the 12 month period which starts with the planning horizon. The population estimates for CPOP and PPOP shall be the most recent population estimates published by the Office of the Governor at least 3 months prior to publication of the fixed need pool.

4. NEW equals an allocation of 5,000 visits to each Medicare-certified agency which:

a. Was added to the federal listing of Medicare-certified agencies subsequent to the most recent prior publication of a fixed need pool, determined as of the most recent published deadline for agency initial decisions prior to publication of the fixed need pool; ~~as determined one month prior to publication of the current fixed need pool~~; and

b. Has not yet filed a cost report for its initial ~~the most recent~~ fiscal year.

5. 20,000 is the desired 12-month minimum number of visits by a Medicare-certified home health agency ~~MEDCHHV equals the current median agency size for the district based on the agencies that reported visits for the most recent fiscal year, as determined in subsection (8) of this rule.~~

6. AHH is the number of approved agencies not yet Medicare certified, as defined in paragraph (2)(c) of this rule, except that agencies exempted from certificate of need pursuant to s. 408.036(3)(h), F.S., are excluded from AHH.

(5) Approval Under Special Circumstances. In the absence of numeric need identified in subsection (4), an applicant may demonstrate that circumstances exist to justify the approval of a new Medicare certified home health agency. Evidence submitted by the applicant must show that need for services is not being met by current Medicare certified home health agencies, with supporting documentation from hospital discharge planners or other health care professionals.

(6) Preferences. Preference shall be given to applicants meeting one or more of the criteria specified below:

(a) Applicants who document a commitment to serve identified populations with documented unmet needs.

(b) Applicants who document a commitment to serve patients with AIDS.

(c) Applicants who document a commitment to provide home health care services to indigent persons and Medicaid patients.

(d) Applicants who document a commitment to establish and maintain a physical presence in an underserved county or counties.

(e) Applicants who propose services not available in the district.

(7) Application Content.

(a) Applicants who operate Medicare certified home health agencies in this state shall list in their application all licensure or certification deficiencies for those Medicare certified agencies during the 3 years prior to the deadline for application submission. The nature of the citations shall be indicated, and the dates they were corrected. Any currently outstanding deficiencies shall be indicated.

(b) Applicants must provide a program description in the application, including:

1. The projected annual number of Medicare funded admissions and visits, by type of service, for the first 2 years of operation.
2. The projected annual number of non-Medicare funded admissions and visits, by type of service, for the first 2 years of operation.
3. The projected number of FTE staff by specialty at the end of each of the first 2 years of operation. An FTE equals 40 hours of work in a 7 day period.
4. The means to be utilized in recruiting staff.
5. The services to be provided directly by agency employees. For purposes of this subparagraph, an "agency employee" is an individual to whom the agency issues a payroll W-2 form stating the amount of federal payroll taxes the agency has withheld; and "services provided directly" means agency employees are expected to provide at least 75 percent of the annual visits for the service.

~~6. Any national accreditation that will be sought by the applicant.~~

(8) Utilization Reports. No later than June 1 of each year, any Medicare certified home health agency, as defined in this rule, shall provide AHCA or its designee with selected data from the Medicare cost report for the previous fiscal year, as submitted to the Medicare fiscal intermediary. The data shall include the fiscal year total of visits, visits by type of service, and cost by visit type. If the cost report includes data covering more than one district, the provider shall identify the data applicable to each district separately. If an agency fails to submit cost report data for the most recent fiscal year as of June 1, data used in subsection (4) will be the number of visits for the fiscal year ending one year prior to the most recent fiscal year.

Specific Authority 408.15(8), 408.034(5) FS. Law Implemented 408.034(3), 408.036(1)(c)(4) FS. History—New 1-1-77, Amended 11-1-77, 6-5-79, 4-24-80, 2-1-81, 4-1-82, 11-9-82, 2-14-83, 4-7-83, 6-9-83, 6-10-83, 12-12-83, 3-5-84, 5-14-84, 7-16-84, 8-30-84, 10-15-84, 12-25-84, 4-9-85, Formerly 10-5-11, Amended 6-19-86, 11-24-86, 1-25-87, 3-2-87, 3-12-87, 8-11-87, 8-7-88, 8-28-88, 9-12-88, 4-19-89, 10-19-89, 5-30-90, 7-11-90, 8-6-90, 10-10-90, 12-23-90, Formerly 10-5.011(1)(d), 10-5.031, Amended 8-24-93, 4-14-97.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Elfie Stamm, Chief, Certificate of Need/Financial Analysis

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Ruben J. King-Shaw, Jr., Director, Agency for Health Care Administration

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: March 30, 1999

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: February 26, 1999

AGENCY FOR HEALTH CARE ADMINISTRATION

Medicaid

RULE TITLE: Provider Enrollment
RULE NO.: 59G-5.010

PURPOSE AND EFFECT: The purpose of this rule is to incorporate by reference the revised Florida Medicaid Provider Enrollment Application, November 1998. The revised application contains formatting changes, policy clarifications and simplifications, and technical corrections that will make the application more user friendly. The effect will be to incorporate by reference in the rule the revised Florida Medicaid Provider Enrollment Application, November 1998.

SUMMARY: The purpose of this rule is to incorporate by reference the revised Medicaid Provider Enrollment Application, November 1998.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: None.

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

SPECIFIC AUTHORITY: 409.919 FS.

LAW IMPLEMENTED: 409.902, 409.907, 409.908 FS.

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

TIME AND DATE: 2:00 p.m., Monday, May 3, 1999

PLACE: 2728 Ft. Knox Blvd., Bldg. 3, Conference Room G, Tallahassee, Florida

PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Karen Girard, Medicaid Program Development, P. O. Box 12600, Tallahassee, Florida 32317-2600, (850)922-7344

THE FULL TEXT OF THE PROPOSED RULE IS:

59G-5.010 Provider Enrollment.

(1) Unless otherwise specified in 59G-4, F.A.C., all providers and billing agents are required to enroll in the Medicaid program and submit a completed Florida Medicaid Provider Enrollment Application (AHCA Form 2200-0003 ~~November 1998~~ ~~September 1998~~) which is available from the fiscal agent and incorporated in this rule by reference.

Specific Authority 409.919 FS. Law Implemented 409.902, 409.907, 409.908 FS. History—New 9-22-93, Formerly 10P-5.010, Amended 7-8-97, 9-8-98, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Karen Girard
NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Ruben J. King-Shaw, Jr., AHCA Director
DATE PROPOSED RULE APPROVED BY AGENCY HEAD: March 29, 1999
DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: January 8, 1999

DEPARTMENT OF HEALTH

Board of Acupuncture

RULE TITLE: Security and Monitoring Procedures for Licensure Examinations
RULE NO.: 64B1-3.008

PURPOSE AND EFFECT: The purpose of the amendment is to adopt the Department of Health rule on security and monitoring procedures for license examination.

SUMMARY: The amendment to the rule is to adopt the Department of Health rule on security and monitoring procedures for license examination.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: None. Any person who wishes to provide information regarding the statement of estimated regulatory cost, or to provide a proposal for a lower cost regulatory alternative must do so in writing within 21 days of this notice.

SPECIFIC AUTHORITY: 455.574(1)(d) FS.

LAW IMPLEMENTED: 455.574(1)(d) FS.

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

TIME AND DATE: 2:00 p.m., May 4, 1999

PLACE: Room 324, Collins Building, 107 W. Gaines Street, Tallahassee, FL 32310

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: William Buckhalt, Executive Director, Board of Acupuncture, 2020 Capital Circle, Southeast, BIN #C06, Tallahassee, Florida 32399-3259

THE FULL TEXT OF THE PROPOSED RULE IS:

64B1-3.008 Security and Monitoring Procedures for Licensure Examinations.

The Board adopts by referenced Rule ~~64B-1.010~~ ~~61-11-014~~, F.A.C., of the Department of ~~Health Business and Professional Regulation~~, effective ~~September 7, 1998~~ as its rule governing licensure examinations.

Specific Authority 455.574(1)(d) FS. Law Implemented 455.574(1)(d) FS. History—New 8-13-84, Formerly 21AA-3.08, 21AA-3.008, 61F1-3.008, 59M-3.008, Amended _____

NAME OF PERSON ORIGINATING PROPOSED RULE:
Board of Acupuncture
NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Board of Acupuncture
DATE PROPOSED RULE APPROVED BY AGENCY HEAD: February 5, 1999
DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: March 5, 1999

DEPARTMENT OF HEALTH

Board of Acupuncture

RULE TITLE: Standards for Approval of Continuing Education Credits
RULE NO.: 64B1-6.005

PURPOSE AND EFFECT: The purpose of the amendment is to insert a statutory reference instead of listing all the statutory requirements for HIV/AIDS courses, and to clarify that the Board approves courses approved by the Department of Health.

SUMMARY: The amendment to rule 64B1-6.005 is to insert 455.604, F.S. instead of listing all the statutory requirements for HIV/AIDS courses, and to clarify that the Board approves courses approved by the Department of Health.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: None.

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

SPECIFIC AUTHORITY: 457.104, 457.107(3), 455.604 FS.

LAW IMPLEMENTED: 457.107(3), 455.604 FS.

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

TIME AND DATE: 2:00 p.m., May 4, 1999

PLACE: Room 324, Collins Building, 107 W. Gaines Street, Tallahassee, FL 32310

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: William Buckhalt, Executive Director, Board of Acupuncture, 2020 Capital Circle, Southeast, BIN #C06, Tallahassee, Florida 32399-3259

THE FULL TEXT OF THE PROPOSED RULE IS:

64B1-6.005 Standards for Approval of Continuing Education Credits.

(1) through (4) No change.

(5) To receive credit for programs on HIV/AIDS, the program must be, at a minimum, 3 hours in length and must address the areas mandated in Section 455.604, F.S. consist of education on the modes of transmission, infection control procedures, clinical management, and prevention of HIV/AIDS; and discussion of current Florida law on HIV/AIDS and its impact on testing, confidentiality of test results, and treatment of patients. The Board accepts HIV/AIDS programs presented or conducted by the Department, and the Department of Health and programs approved. The Board also accepts courses for three hours of credit approved by other professional regulatory boards for the health professions.

Specific Authority ~~455.2226~~, 457.104, 457.107(3), 455.604 FS. Law Implemented ~~455.2226~~, 457.107(3), 455.604 FS. History--New 2-24-88, Amended 8-6-89, Formerly 21AA-6.005, 61F1-6.005, Amended 3-18-97, Formerly 59M-6.005, Amended

NAME OF PERSON ORIGINATING PROPOSED RULE: Board of Acupuncture
NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Board of Acupuncture
DATE PROPOSED RULE APPROVED BY AGENCY HEAD: February 5, 1999
DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: March 5, 1999

DEPARTMENT OF HEALTH

Board of Clinical Laboratory Personnel

RULE TITLE: Supervisor
RULE NO.: 64B3-5.002
PURPOSE AND EFFECT: The proposed rule changes the experience requirement for supervisor in subsection (1)(b) from post baccalaureate to post masters.
SUMMARY: The proposed rule changes the supervisor experience requirement in subsection (1)(b) to experience subsequent to receipt of the masters degree.
SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: No Statement of Estimated Regulatory Cost was prepared.

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

SPECIFIC AUTHORITY: 483.805(4), 483.823 FS.
LAW IMPLEMENTED: 381.0034, 483.800, 483.809, 483.815, 483.823 FS.

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

TIME AND DATE: 10:00 a.m., May 5, 1999
PLACE: Room 324, Collins Building, 107 W. Gaines Street, Tallahassee, FL

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Joe Baker, Jr., Executive Director, Board of Clinical Laboratory Personnel/MQA, 2020 Capital Circle, S. E., Bin #C07, Tallahassee, Florida 32399-3257

THE FULL TEXT OF THE PROPOSED RULE IS:

64B3-5.002 Supervisor.
Qualifications and Responsibilities.

(1) Qualification. Degrees or semester hours of academic credit required in this section shall be obtained at a regionally accredited college or university or by foreign education equated pursuant to Rule 64B3-6.002(6). In order to be licensed as a supervisor, an applicant shall have four hours of Board approved HIV/AIDS continuing education and one of the following:

- (a) No change.
- (b) a masters degree in clinical laboratory science, one of the licensure categories, or one of the chemical or biological sciences, and three years of pertinent clinical laboratory experience in the categories for which licensure is sought, one (1) year of which shall be post ~~masters baccalaureate~~.
- (c) through (f) No change.
- (2) No change.

Specific Authority 483.805(4), 483.823 FS. Law Implemented 381.0034, 483.800, 483.809, 483.815, 483.823 FS. History--New 12-6-94, Amended 7-12-95, 12-4-95, Formerly 59O-5.002, Amended 5-26-98, 1-11-99, Amended

NAME OF PERSON ORIGINATING PROPOSED RULE: Board of Clinical Laboratory Personnel
NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Board of Clinical Laboratory Personnel
DATE PROPOSED RULE APPROVED BY AGENCY HEAD: January 28, 1999
DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: February 12, 1999

DEPARTMENT OF HEALTH

Board of Clinical Laboratory Personnel

RULE TITLES: Examination Review Procedures
Competency Areas and Weighting
RULE NOS.: 64B3-7.006
64B3-7.007
PURPOSE AND EFFECT: The proposed rule amendment to the existing Rule 64B3-7.006 is intended to change the fee for examination review to \$75. The proposed changes to Rule 64B3-7.007 are intended to clarify competency areas and weighting of the examination.

SUMMARY: The amendment to Rule 64B3-7.006 increases the exam review fee to \$75. The amendment to Rule 64B3-7.009 clarifies the specialty subjects for licensure as a technologist or technician.

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

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

SPECIFIC AUTHORITY: 455.574, 483.809 FS.

LAW IMPLEMENTED: 455.574, 483.809(2), 483.811 FS.

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

TIME AND DATE: 10:00 a.m., May 5, 1999

PLACE: Room 324, Collins Building, 107 W. Gaines Street, Tallahassee, FL

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Joe Baker, Jr., Executive Director, Board of Clinical Laboratory Personnel/MQA, 2020 Capital Circle, S. E., Bin #C07, Tallahassee, Florida 32399-3257

THE FULL TEXT OF THE PROPOSED RULES IS:

64B3-7.006 Examination Review Procedures.

(1) No change.

(2) The fee for each review for each examination shall be ~~\$65~~ \$75.

Specific Authority 455.574, 483.809(2) FS. Law Implemented 455.574, 483.809(2) FS. History—New 12-5-95, Formerly 59O-7.006, Amended

64B3-7.007 Competency Areas and Weighting.

~~Beginning with the Spring of 1999, the~~ general areas of competency to be covered by the examinations for licensure and the approximate relative weight to be assigned in grading each content area tested, expressed as a percentage, ~~with column "T" for Technologist and "TC" for Technician~~ are as follows:

(1) No change.

(2) For the Specialty subjects for licensure as a Technologist:

(a) Microbiology:	T	TC
1. General bacteriology	50	60
2. Mycology	10	2
3. Parasitology	10	2
4. Virology, rickettsia, chlamydia	4	0
5. Infection control, surveillance and epidemiology	3	0
6. Antimicrobial agents and studies	5	6
7. Quality control/quality assurance	10	10
8. Equipment and Safety	3	6
9. Sterilization	1	6

10. Specimen collection, handling and logging	4	8
(b) Serology/Immunology:		
1. Basic immunology	20	44
2. Immunology	22	20
3. Quality control/quality assurance	10	10
4. Detection of immune substances	22	10
5. Evaluation of immune related cells	10	10
6. Production of antisera	2	0
7. Immunologically mediated or related conditions	8	0
8. Specimen collection/handling/safety	6	6
(c) Clinical chemistry:		
1. Clinical chemistry, biochemistry	40	50
2. Instrumentation	10	8
3. Urinalysis other fluids and crystals	10	16
4. Toxicology and therapeutic drug monitoring	6	10
5. Quality control/quality assurance	18	6
6. Correlation and test results	4	6
7. Blood gas analysis	4	0
8. Radioassay and Immunoassay	4	0
9. Specimen collection/handling/safety	4	4
(d) Hematology:		
1. Hematopoiesis	4	4
2. Hematological procedures	44	55
3. Hematologic disorders	14	8
4. Hemostasis	16	16
5. Quality control/quality assurance	10	6
6. Therapy and monitoring therapy	2	2
7. Microscopy/body fluids	6	5
8. Specimen collection/handling/safety	4	4
(e) Immunoematology:		
1. Immunology	10	17
2. Blood group systems, genetics, antigen and antibody identifications	25	20
3. Serologic/Immunoematologic testing	25	25
4. Transfusion reactions/problems	5	3
5. Physiology and transfusion practice	20	15
6. Quality assurance, safety, regulations	10	10
7. Specimen collection/handling/storage	5	10
(f) Histology:		
1. Instrumentation	10	8
2. Fixation	8	16
3. Processing	10	12
4. Microtomy	8	14
5. Staining	20	20

6. Mounting/evaluation	2	4
7. Special techniques	14	8
8. Flow cytometry/immunohistology	10	0
9. Quality control/quality assurance	8	8
10. Specimen collection/handling/safety	10	10

(g) Blood Banking:

1. through 5. No change.

(3) For the Generalist Examination for licensure as a technician:

<u>(a) Microbiology</u>	<u>18</u>
<u>(b) Serology/immunology</u>	<u>16</u>
<u>(c) Clinical chemistry</u>	<u>31</u>
<u>(d) Hematology</u>	<u>17</u>
<u>(e) Immunohematology</u>	<u>18</u>

Specific Authority 455.574, ~~483.809~~ FS. Law Implemented 455.574, ~~483.811~~ FS. History—New 12-5-95, Formerly 590-7.007, Amended 7-5-98, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Board of Clinical Laboratory Personnel

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Board of Clinical Laboratory Personnel

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: January 28, 1999

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: March 5, 1999

DEPARTMENT OF HEALTH

Board of Clinical Laboratory Personnel

RULE TITLES:	RULE NOS.:
Application Fees	64B3-9.001
Initial Licensure Fees	64B3-9.002
Refunds	64B3-9.007

PURPOSE AND EFFECT: The proposed rule amendments are intended to change fees for clinical laboratory training programs, with regard to application and initial licensure fees, and to clarify conditions under which refunds with regard to examination fees can be given.

SUMMARY: The proposed rule amendments to 64B3-9.001 and 9.002 set forth an application fee for clinical laboratory training programs in the amount of \$200, and an initial licensure fee in the amount of \$200. The amendment to Rule 64B3-9.007 clarifies that examination fees will be refunded only if the applicant is determined to be ineligible for the exam.

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

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

SPECIFIC AUTHORITY: 455.587, 483.805(4) 483.807(1) FS.
LAW IMPLEMENTED: 455.587, 483.807 FS.

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

TIME AND DATE: 10:00 a.m., May 5, 1999

PLACE: Room 324, Collins Building, 107 W. Gaines Street, Tallahassee, FL

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Joe Baker, Jr., Executive Director, Board of Clinical Laboratory Personnel/MQA, 2020 Capital Circle, S. E., Bin #C07, Tallahassee, Florida 32399-3257

THE FULL TEXT OF THE PROPOSED RULES IS:

64B3-9.001 Application Fees.

(1) through (7) No change.

(8) Clinical laboratory personnel training program – ~~\$300~~ \$200

(9) through (12) No change.

Specific Authority 455.587, 483.807(1) FS. Law Implemented 455.587, 483.807 FS. History—New 12-7-93, Formerly 61F3-9.001, 590-9.001, Amended 5-26-98, _____.

64B3-9.002 Initial Licensure Fees.

(1) For all clinical laboratory personnel licenses – \$100

(2) Clinical laboratory personnel training program – ~~\$100~~ \$200

(3) Continuing education providers – \$100

Specific Authority 455.587, 483.805(4), 483.807(1) FS. Law Implemented 455.587, 483.807 FS. History—New 12-7-93, Formerly 61F3-9.002, 590-9.002, Amended _____.

64B3-9.007 Refunds.

(1) No change.

(2) Examination fees are refundable only if the applicant is found by the Board to be ineligible to sit for the examination ~~or if the candidate withdraws from the examination prior to the withdrawal deadline and makes a written request for a refund.~~

(3) No change.

Specific Authority 483.805(4), 483.807(1) FS. Law Implemented 483.807 FS. History—New 12-7-93, Formerly 61F3-9.007, 590-9.007, Amended 5-26-98, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Board of Clinical Laboratory Personnel

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Board of Clinical Laboratory Personnel

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: January 28, 1999

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: March 5, 1999

DEPARTMENT OF HEALTH

Board of Massage Therapy

RULE TITLE: Expiration of Incomplete Applications
 RULE NO.: 64B7-25.006

PURPOSE AND EFFECT: The purpose of Rule 64B7-25.006 is to provide that applications not completed within one year of the date the original application form is submitted, the application shall expire as outdated.

SUMMARY: Applications not completed within one year of the date the original application form is submitted, the application shall expire as outdated.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: None.

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

SPECIFIC AUTHORITY: 480.035(7) FS.

LAW IMPLEMENTED: 480.041 FS.

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

TIME AND DATE: 1:00 p.m., May 4, 1999

PLACE: Room 324, Collins Building, 107 W. Gaines Street, Tallahassee, FL 32310

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Bill Buckhalt, Executive Director, Board of Massage, 2020 Capital Circle, Southeast, BIN #C09, Tallahassee, Florida 32399-3259

THE FULL TEXT OF THE PROPOSED RULE IS:

64B7-25.006 Expiration of Incomplete Applications.

If an applicant fails to submit all items necessary for his/her application to be considered complete within one year from the date the application is first received by the Department, the application shall expire and the applicant's file shall be closed.

Specific Authority 480.035(7) FS. Law Implemented 480.041 FS. History—New _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Board of Massage Therapy

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Board of Massage Therapy

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: January 29, 1999

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: February 5, 1999

DEPARTMENT OF HEALTH

Board of Massage Therapy

RULE TITLE: Citations
 RULE NO.: 64B7-30.004

PURPOSE AND EFFECT: The purpose for the amendment is to add to the list of statutory violations which the Board has determined are appropriately handled by the issuance of a citation as permitted in Section 455.617.

SUMMARY: The amendment to rule 64B7-30.004 is to add to the list of statutory violations which the Board has determined are appropriately handled by the issuance of a citation as permitted in Section 455.617.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: None.

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

SPECIFIC AUTHORITY: 455.617 FS.

LAW IMPLEMENTED: 455.617 FS.

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

TIME AND DATE: 1:00 p.m., May 4, 1999

PLACE: Room 324, Collins Building, 107 W. Gaines Street, Tallahassee, FL 32310

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Bill Buckhalt, Executive Director, Board of Massage, 2020 Capital Circle, Southeast, BIN #C09, Tallahassee, Florida 32399-3259

THE FULL TEXT OF THE PROPOSED RULE IS:

64B7-30.004 Citations.

(1) Definitions. As used in this rule:

(a) "Citation" means an instrument which meets the requirements set forth in s. ~~455.617~~ ~~455.224~~, F.S., and which is served upon a subject for the purpose of assessing a penalty in an amount established by this rule;

(b) No change.

(2) In lieu of the disciplinary procedures contained in s. ~~455.617~~ ~~455.225~~, F.S., the Department is hereby authorized to dispose of any violation designated herein by issuing a citation to the subject within six months after the filing of the complaint which is basis for the citation.

(3) The Board hereby designates the following as citation violations, which shall result in a penalty as specified below:

(a) through (h) No change.

(i) Failure of a massage therapist to notify the Board of a change of address as required by Section 455.717(1), F.S.

(j) Advertising massage therapy services under a name under which a license has not been issued in violation of Section 480.046(1)(d), F.S. shall result in a penalty of \$250.00.

Specific Authority 455.617 FS. Law Implemented 455.617 FS. History—New 1-1-92, Amended 11-15-92, Formerly 21L-30.004, Amended 9-30-93, 12-12-93, 4-21-97, Formerly 61G11-30.004, Amended 8-16-98.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Board of Massage Therapy
NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Board of Massage Therapy
DATE PROPOSED RULE APPROVED BY AGENCY HEAD: January 29, 1999
DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: February 5, 1999

**DEPARTMENT OF HEALTH
Board of Occupational Therapy**

RULE TITLES: RULE NOS.:
Use of Prescription Devices 64B11-4.001
Occupational Therapy Aides and
Other Unlicensed Personnel
Involved in the Practice of
Occupational Therapy 64B11-4.002

PURPOSE AND EFFECT: The Board has determined that it is necessary to amend Rule 64B11-4.001 by adding new rule text to further clarify the use of prescription devices. Rule 64B11-4.002 is being amended to update the rule text with regard to an occupational therapy aide and the services they are allowed to provide.

SUMMARY: The Board proposes to amend Rule 64B11-4.001 to include language which sets forth the requirements of supervised treatment sessions and treatment supervisors. The Board proposes to amend Rule 64B11-4.001 by adding new rule text to further clarify the duties of an occupational therapy aide.

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

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

SPECIFIC AUTHORITY: 468.203(4), 468.204 FS.

LAW IMPLEMENTED: 468.203(4), (5) FS.

IF REQUESTED IN WRITING WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE NOTICED IN THE NEXT AVAILABLE FLORIDA ADMINISTRATIVE WEEKLY.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Kaye Howerton, Executive Director, Board of Occupational Therapy/MQA, 2020 Capital Circle, S. E., Bin #C05, Tallahassee, Florida 32399-3255

THE FULL TEXT OF THE PROPOSED RULES IS:

64B11-4.001 Use of Prescription Devices.

(1) Electrical Stimulation Device

(a) through (c) No change.

(d) Supervised treatment sessions shall be conducted under the supervision of licensed occupational therapists and occupational therapy assistants certified in the use of electrical stimulation devices or licensed physical therapists and physical therapist assistants trained in the use of electrical stimulation devices. Treatment supervisors must have a minimum of 24 months prior experience in the use of electrical stimulation devices.

~~(e)~~ No change.

1. through 5. No change.

6. Documentation of Treatments

Ability to document treatment including immediate and long-term effects of therapeutic electrical current.

~~(f)~~ No change.

(2) Ultrasound Device

(a) through (c) No change.

(d) Supervised treatment sessions shall be conducted under the supervision of licensed occupational therapists and occupational therapy assistants certified in the use of ultrasound devices or licensed physical therapists and physical therapist assistants trained in the use of ultrasound devices. Treatment supervisors must have a minimum of 24 months prior experience in the use of ultrasound devices.

~~(e)~~ No change.

1. through 5. No change.

6. Documentation of Treatment

Ability to document treatment, including immediate and long-term effects of clinical ultrasound.

~~(f)~~ No change.

Specific Authority 468.203(4), 468.204 FS. Law Implemented 468.203(4) FS. History—New 1-1-88, Formerly 21M-15.001, 61F6-15.001, Amended 12-4-95, Formerly 59R-63.001, Amended _____.

64B11-4.002 Occupational Therapy Aides and Other Unlicensed Personnel Involved in the Practice of Occupational Therapy.

(1) An occupational therapy aide is an unlicensed person who assists in the practice of occupational therapy, who works under the direct supervision of a licensed occupational therapist or occupational therapy assistant and whose activities require an understanding of occupational therapy but do not require professional or advanced training in the basic anatomical, biological, psychological, and social sciences involved in the practice of occupational therapy. An occupational therapy aide is a worker who is trained on the job to provide supportive services to occupational therapists and occupational therapy assistants. ~~meet a specific need.~~ The term

occupational therapist aide as used in this section means any unlicensed personnel involved in the practice of occupational therapy.

(2) A licensed occupational therapist or occupational therapy assistant may delegate to occupational therapy aides only specific tasks which are neither evaluative, assessive, task selective nor recommending in nature, and only after insuring that the aide has been appropriately trained for the performance of the task. All delegated patient related tasks must be carried out under direct supervision, which means that the aide must be within the line of vision of the supervising occupational therapist or occupational therapy assistant ~~must be within the same care area.~~

(3) No change.

(4) Duties or functions which occupational therapy aides may perform without direct supervision include, but are not limited to,

(a) through (f) No change.

(5) Duties or functions which occupational therapy aides shall not perform include, but are not limited to,

(a) through (e) No change.

(f) Patient ~~Direct patient~~ treatment

(g) No change.

Specific Authority 468.204 FS. Law Implemented 468.203(5) FS. History--New 9-12-88, Formerly 21M-15.003, 61F6-15.003, Amended 8-12-96, Formerly 59R-63.003, Amended 6-15-98, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Board of Occupational Therapy

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Board of Occupational Therapy

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: March 26, 1999

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: March 5, 1999

DEPARTMENT OF HEALTH

Board of Orthotists and Prosthetists

RULE TITLE: Incomplete Applications for Licensure

RULE NO.: 64B14-4.0035

PURPOSE AND EFFECT: The purpose and effect of the rule will be to advise the applicants of the expiration of applications for licensure which are not completed within one year of the date of original submission.

SUMMARY: The rule advises applicants of the expiration of applications for which are not completed within one year of the date of original submission.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: None.

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

SPECIFIC AUTHORITY: 468.802 FS.

LAW IMPLEMENTED: 468.803, 468.805, 468.807 FS.

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

TIME AND DATE: 3:00 p.m., May 4, 1999

PLACE: Room 324, Collins Building, 107 W. Gaines Street, Tallahassee, FL 32310

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Joe Baker, Jr., Executive Director, Board of Orthotist and Prosthetists, 2020 Capital Circle, Southeast, BIN #C09, Tallahassee, Florida 32399-3259

THE FULL TEXT OF THE PROPOSED RULE IS:

64B14-4.0035 Incomplete Applications for Licensure.

Any application submitted for licensure which is not made complete within one year from the date of the original submission shall expire. A new application with applicable fees shall be required for any applicant who still seeks to be licensed after expiration of an application.

Specific Authority 468.802 FS. Law Implemented 468.803, 468.805, 468.807 FS. History--New _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Board of Orthotists and Prosthetists

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Board of Orthotists and Prosthetists

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: March 15, 1999

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: November 13, 1998

DEPARTMENT OF HEALTH

Board of Orthotists and Prosthetists

RULE TITLE: Provisional License

RULE NO.: 64B14-4.200

PURPOSE AND EFFECT: The purpose and effect of Rule 64B14-4.200 is to advise the licensee upon approval of an application for provisional licensure, the licensee shall submit a Provisional Supervisor Form.

SUMMARY: A Provisional Supervisor Form is to be completed by the licensee before being approved for a provisional licensure.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: None.

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

SPECIFIC AUTHORITY: 468.802 FS.

LAW IMPLEMENTED: 468.805(2) FS.

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

TIME AND DATE: 3:00 p.m., May 4, 1999

PLACE: Room 324, Collins Building, 107 W. Gaines Street, Tallahassee, FL 32310

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Joe Baker, Jr, Executive Director, Board of Orthotist and Prosthetists, 2020 Capital Circle, Southeast, BIN #C09, Tallahassee, Florida 32399-3259

THE FULL TEXT OF THE PROPOSED RULE IS:

64B14-4.200 Provisional License.

(1) Upon approval of an application for provisional licensure, the licensee shall submit a Provisional Supervisor Form, DH 1282, effective March, 1999, which is hereby incorporated by reference, within 30 days of the issuance of the license number.

(2) If, for any reason, supervision is terminated by the supervisor submitted on the Provisional Supervisor Form, the licensee and the supervisor must notify the Board office in writing within five business days of the date of termination. The licensee must submit a new Provisional Supervisor Form within 30 days.

(3) Upon completion of the provisional licensure period by persons licensed pursuant to Section 468.805(2), F.S., the licensee shall submit verification signed by the applicant's qualified supervisor(s), which shall verify that the applicant has worked under the supervision of the qualified supervisor(s), and the number of months worked. The licensee shall also submit the licensure fee provided in Rule 64B14-2.001(2).

Specific Authority 468.802 FS. Law Implemented 468.805(2) FS. History--New 12-10-98, Amended _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Board of Orthotists and Prosthetists

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Board of Orthotists and Prosthetists

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: March 15, 1999

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: November 13, 1998

Section III Notices of Changes, Corrections and Withdrawals

DEPARTMENT OF INSURANCE

RULE NO.: 4-211.002
RULE TITLE: Insurance Procedures
General Procedures

NOTICE OF CHANGE

Notice is hereby given that the following changes have been made to the proposed rule in accordance with subparagraph 120.54(3)(d)1., Florida Statutes, published in Vol. 24, No .40, October 2, 1998, in the Florida Administrative Weekly:

~~4-211.002(15)(12) An applicant for certification as a health care risk manager shall complete and submit the following forms:~~

~~(a) Form DI4-348, "Application for Certification as Health Care Risk Manager," rev. 4/94; and either~~

~~(b) Form DI4-349A, "Certificate of Employment for Health Care Risk Managers," rev. 2/94; or~~

~~(c) Form DI4-349B, "Certificate of Employment for Health Care Risk Managers," rev. 11/93.~~

(16) through (37) renumbered (15) through (36) No change.

Add 626.865, 626.9916 and 626.928, F.S. to law implemented.

DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES

Division of Standards, Bureau of Liquefied Petroleum Gas Inspection

RULE NOS.: 5F-11.002
RULE TITLES: Standards of National Fire Protection Association Adopted Bureau of Liquefied Petroleum Gas Inspection Forms
5F-11.004 Bureau of Liquefied Petroleum Gas Inspection Forms
5F-11.028 Installation of Containers on Roofs of Buildings

NOTICE OF CHANGE

THE TEXT OF THE PROPOSED RULE CHANGES ARE:

PART I - GENERAL

5F-11.002 Standards of National Fire Protection Association Adopted.

(1) The standards of the National Fire Protection Association for the storage and handling of liquefied petroleum gases as published in NFPA No. 58, LP-Gas Code 1998 edition,