

McDaniel, Deputy Secretary, Department of Health, c/o General Counsel's Office, 4052 Bald Cypress Way, Bin #A02, Tallahassee, Florida 32399-1703

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

Section II Proposed Rules

DEPARTMENT OF STATE

Division of Cultural Affairs

RULE TITLE:

RULE NO.:

Division of Cultural Affairs

1T-1.001

PURPOSE AND EFFECT: The purpose of this amendment will be to establish in rule the description of the Division's Regional Cultural Facilities Program and the program's specific eligibility and evaluation criteria.

SUMMARY: The proposed rule details the criteria for eligibility for the Division's Regional Cultural Facilities Program. The rule also details the evaluation and scoring procedures for the program, administrative procedures, and incorporates by reference the required forms for the program.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: There are not regulatory costs associated with the proposed rule.

Any person who wishes to provide information regarding the statement of 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: 265.284(5)(d), 265.285(1)(c), 265.286(1),(6), 265.702 FS.

LAW IMPLEMENTED: 265.284, 265.285, 265.286 FS., Chapter 2002-267, Laws of Florida creating 265.702 FS.

IF REQUESTED WITHIN 21 DAYS OF THIS NOTICE, A HEARING WILL BE HELD AT THE TIME, DATE AND PLACE SHOWN BELOW:

TIME AND DATE: 9:00 a.m., September 16, 2002

PLACE: Division of Cultural Affairs, 1001 DeSoto Park Drive, Tallahassee, Florida

Pursuant to the provisions of the American with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 48 hours before the workshop/meeting by contacting Valerie Ohlsson at (850)487-2980. If you are hearing or speech impaired, please contact the agency by calling (850)488-5779 (TDD).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Linda Downey, Chief, Bureau of Grant Services, Division of Cultural Affairs, 1001 DeSoto Park Drive, Tallahassee, Florida 32301

THE FULL TEXT OF THE PROPOSED RULE IS:

1T-1.001 Division of Cultural Affairs.

(1) through (19) No change.

(20) Regional Cultural Facilities Program. The purpose of this program is to accept and administer funds to provide grants for the renovation, construction, or acquisition of regional cultural facilities. It is not intended to fund project planning, such as feasibility studies and architectural drawings, or operational support.

(a) Administrative and Legal Eligibility. The applicant for a regional cultural facilities grant must:

1. Be a public entity governed by either a municipality, county, or qualified corporation as defined in Section 265.702(2), Florida Statutes.

2. Have ownership of the land and building. In the cases where either the land or building is not owned, fee simple, by the applicant, all underlying owners must also meet the requirements in subsection 1.

3. Retain ownership of all improvements made under the grant.

4. Have satisfied the administrative requirements of previous grants received from the Division.

(b) Program Eligibility. All eligible applications shall consist of the following documents and information:

1. A completed and signed Regional Cultural Facilities Program Application Form (#CA2E101, eff. 10/02), available from the Division and incorporated by reference, including the number of required application copies, submitted to the Division on or before the announced postmark deadline.

2. A description of the Project Scope of Work which shall include a project narrative.

3. Project Budgets including a summary and detail, a matching funds statement, and match summary chart.

4. A description of educational and cultural programs as required by Sections 265.702(5)(a) and (5)(b), Florida Statutes.

5. Documentation of a 150-mile service area as described in Section 265.702(5)(c), Florida Statutes.

6. Documentation of a proposed acquisition, renovation, or construction cost of at least \$50 million.

7. Documentation of unrestricted ownership of the land and building.

8. An independent certified audit of the applicant's financial records.

9. Cost Benefit Analysis/Feasibility Study.

10. An 8 1/2" x 11" reduction of current architectural plans.

11. Letters of Support: Submit letters or list of local officials lending support to this project.

(c) Funding.

1. The annual amount of the grant shall not exceed the amount permitted in Section 265.702(7), Florida Statutes. There is no minimum amount.

2. An applicant from the same organization shall not submit 2 or more applications under a single application deadline for the same facility, project, site, or phase.

(d) Time Limits and Funding Cap. The total amount of grants awarded shall not exceed the amount permitted in Section 265.702(7), Florida Statutes. "Awarded" means July 1 of the fiscal year in which grant funds were appropriated by the Florida Legislature.

(e) Matching Funds.

1. Eligible matching funds provided by the grantee or third parties shall be on at least a two-to-one match of the amount requested, except for eligible Rural Economic Development Initiative (REDI) applicants.

2. Eligible matching funds provided by eligible REDI applicants shall be at least a one-to-one match of the amount requested.

3. At least 50% of the required match must be in cash. For the purposes of this program, cash shall include cash-on-hand, and cash expenditures made on the project during the three years immediately preceding the award of the grant.

4. At least 50% of the cash match must be cash-on-hand and dedicated to the project.

5. In-kind contributions of goods and services shall be subject to the restrictions of Section 265.702(6), Florida Statutes.

6. Municipalities and counties must submit a copy of the approved resolution or minutes from the commission meeting, with the original application, which includes the dollar amount dedicated and available to the project if the grant is awarded and the date the funds will be available. Resolutions that have not been approved by the application deadline can not be used as match documentation. Local funding, as indicated by the resolution, must be made available within 90 days of state award notification.

(f) Application Review Panel.

1. The Florida Arts Council shall review each eligible application based on the following criteria: Scope of Work, up to 20 points; Project Budget and Matching Funds, up to 25 points; Educational and Cultural Programs, up to 30 points; and Service Area, up to 25 points.

2. All applications that receive an average score of at least of 75 out of 100 possible points will be recommended for funding.

3. The panel shall develop a priority list based on the average score for each application.

4. The Florida Art Council shall submit a priority list of all projects that are recommended for funding to the Secretary of State.

(g) The Secretary of State shall review the recommendations of the Council and provide the Legislature with an approved priority list with funding recommendations.

(h) Retaining Projects on the next grant cycle priority list.

1. Projects that are approved and recommended by the Secretary but are not funded by the Legislature shall be retained on the priority list for the next grant cycle only.

2. All projects that are retained shall be required by the Division to submit the information in section (b)1.-3. above in order to reflect the most current status of the project.

3. The deadline for the receipt of updated information shall be the rollover deadline as published in the Florida Administrative Weekly.

4. Rollover updates will not be re-scored, but rather merged with the new applications using the original scores and recommended funding.

5. Rollover updates that are determined by the Division to be incomplete or ineligible, changed in scope or venue, or increased the funding request shall be removed from the priority list.

(i) No changes in project scope or venue will be permitted.

(j) Grant Award Agreement. The Grant Award Agreement (CA2E102, eff. -) incorporated by reference and available from the Division is the document by which the organization enters into a contract with the State of Florida for the management of grant funds which shall include:

1. An update of the application project narrative and budget.

2. A completed Assurance of Compliance and Signature Authorization Form (Form CA2E059, eff. 8/2002) incorporated by reference and available from the Division.

3. Other provisions that shall be agreed to by both the grantee and the state.

(k) Reporting Requirements.

1. Interim Reports shall be submitted at six-month intervals until the project is complete. For the purpose of this program, a project is considered complete when all grant and match funds have been expended. The first Interim Report is due on January 31 of the fiscal year in which the grant was awarded.

2. Final Report. A Final Report shall be submitted 45 days after the completion of the project.

3. All reports shall include the following information:

a. A description of the work completed.

b. A financial statement showing the expenditure of grant and match.

c. A state grant expenditure log that includes check number, amount of check, date of check, name of payee, and a description of the expenditure.

Specific Authority 255.043(5), 265.284(5)(d), 265.285(1)(c), 265.286(1),(4),(6), 265.2861(2)(b), 265.2865(6), 265.51, 265.605(1), 265.608, 265.609(1),(4),(6), 265.701(4) FS. Law Implemented 215.97, 255.043, 265.284, 265.285, 265.286, 265.2861, 265.2865, 265.51-56, 265.601-607, 265.608, 265.609, 265.701, 286.011, 286.012, 286.25 FS. History—New 11-23-82, Formerly 1T-1.01, Amended 10-1-96, 10-31-96, 2-2-97, 6-2-97, 7-17-97, 9-10-97, 1-4-98, 7-26-98, 8-2-98, 10-5-98, 10-25-98, 8-17-99, 8-1-02_____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Linda Downey, Chief, Bureau of Grant Services
NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: JuDee Pettijohn, Director of Division of Cultural Affairs
DATE PROPOSED RULE APPROVED BY AGENCY HEAD: August 7, 2002
DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: June 28, 2002

DEPARTMENT OF INSURANCE

RULE TITLE: Confidentiality of Consumer Personal Financial and Health Information Pursuant to Section 627.3111, F.S. RULE NO.: 4-128.024

PURPOSE, EFFECT AND SUMMARY: The proposed rule defines the phrase, “personal financial and health information” as used in §627.3111, F.S., which provides guidelines to protect personal financial and health information of consumers contained in files of the Department. The rule will protect the privacy of consumers.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: 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: 624.308(1) FS.

LAW IMPLEMENTED: 624.307(1), 627.3111 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: 9:30 a.m., September 18, 2002

PLACE: Room 143, Larson Building, 200 East Gaines Street, Tallahassee, Florida

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this program, please advise the Department at least 5 calendar days before the program by contacting the person listed below.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Tom Terfinko, Bureau Chief, Bureau of Consumer Assistance, Division of Consumer Services, Department of Insurance, 200 East Gaines Street, Tallahassee, Florida 32399-0322, (850)413-5702

THE FULL TEXT OF THE PROPOSED RULE IS:

4-128.024 Confidentiality of Personal Financial and Health Information Pursuant to Section 627.3111, F.S.

(1) The phrase, “personal financial and health information” as used in Section 627.3111, Florida Statutes, means any information embodied in print, language, data, diagrams, or pictures in any medium whatsoever which if disclosed would reveal:

(a) Any individual’s personal health condition, disease, or injury;

(b) The existence, nature, source, or amount of any individual’s personal income;

(c) The existence, nature, source, or amount of any individual’s personal expenses;

(d) Records of or relating to any individual’s personal financial transactions of any kind;

(e) The existence, identification, nature, or value of any individual’s personal assets, liabilities, or net worth;

(f) A history of any individual’s personal medical diagnosis or treatment;

(g) The existence or content of any individual coverage or status under any insurance policy or annuity contract;

(h) Any individual’s personal contractual rights or obligations;

(i) Any social security number, Department file number, bank account number, or other number used for identification of any individual or any account in which any individual has a personal financial interest; or

(j) The existence, identification, nature, or value of any individual’s beneficial interest in any insurance policy, annuity contract, or trust.

(2) Notwithstanding (1) above, the following are not regarded as “personal financial and health information”:

(a) The name of an inquirer or complainant;

(b) The residential address of an inquirer or complainant;

or

(c) The name of a regulated entity that is the subject of a complaint or inquiry.

Specific Authority 624.308(1) FS. Law Implemented 624.307(1), 627.3111 FS. History—New _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Tom Terfinko, Bureau Chief, Bureau of Consumer Assistance, Division of Consumer Services, Department of Insurance

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Marta Arrington, Director, Division of Consumer Services, Department of Insurance

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: May 31, 2002

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: June 14, 2002

DEPARTMENT OF EDUCATION

Commission for Independent Education

RULE TITLE: Probable Cause Panel
RULE NO.: 6F-2.006

PURPOSE AND EFFECT: The purpose of the proposed new rule is to formalize the process of appointing a Probable Cause Panel to review alleged violations of law by nonpublic nondegree-granting postsecondary schools. The effect is that the Commission will be able to proceed efficiently with investigations into alleged violations and due process when necessary.

SUMMARY: The proposed new rule provides that the chair of the Commission appoints three people to a probable Cause Panel when the need arises, and provides that at least one panel member shall be a current member of the Commission. Other panel members may be past members of the Commission or a predecessor board. Voting restrictions are addressed.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: There will be little or no additional cost to the agency to adopt and circulate the new rule, or to implement it. There will be no significant cost to affected institutions.

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: 246.207(1)(d), 246.213(1), 246.226(3) FS.

LAW IMPLEMENTED: 246.226, 246.2265, 246.227, 246.228 FS.

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

TIME AND DATE: 10:00 a.m., Friday, September 13, 2002
PLACE: Renaissance Hotel, 5445 Forbes Place, Orlando, FL
THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Sandra Knight, Assistant Executive Director, Commission for Independent Education, Department of Education, 2650 Apalachee Parkway, Suite A, Tallahassee, FL 32301, telephone (850)488-8695

THE FULL TEXT OF THE PROPOSED RULE IS:

6F-2.006 Probable Cause Panel.

(1) The chair of the Commission shall appoint three people to a Probable Cause Panel, and shall designate its chair. At least one panel member shall be current member of the Commission. Other members may be current Commission members or previous members of the Commission for Independent Education, State Board of Independent Colleges and Universities or State Board of Nonpublic Career Education. Each Probable Cause Panel shall serve on an ad hoc basis to review Specific cases referred to it by the Commission.

(2) Current Commission members who are on the Probable Cause Panel cannot vote for final agency action on institutions whose cases they have reviewed while serving on the panel.

(3) If a Commission member has reviewed a case as a member of the Probable Cause Panel, that member, if available, shall be on the panel for reconsideration of that case if reconsideration is necessary.

Specific Authority 246.207(1)(d), 246.213(1), 246.226(3) FS. Law Implemented 246.226, 246.2265, 246.227, 246.228 FS. History—New

NAME OF PERSON ORIGINATING PROPOSED RULE: Sandra Knight, Assistant Executive Director, Commission for Independent Education

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Samuel L. Ferguson, Executive Director, Commission for Independent Education

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: August 14, 2002

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: July 19, 2002, p. 3038, Vol. 28, No. 29

DEPARTMENT OF TRANSPORTATION

RULE CHAPTER TITLE: Incorporation by Reference
RULE CHAPTER NO.: 14-15

RULE TITLE: Toll Facilities Description and Toll Rate Schedule
RULE NO.: 14-15.0081

PURPOSE AND EFFECT: The purpose of this rulemaking to allow the public an opportunity to provide input to changes in the Toll Facilities Description and Toll Rate Schedule required by the construction of an interchange on Florida’s Turnpike at State Road 710/Northlake Boulevard in Palm Beach County. This new interchange will be located on the Ticket System, approximately 6.6 miles north of the existing Okeechobee Boulevard interchange and approximately 2.4 miles south of the existing PGA Boulevard interchange.

SUMMARY: The proposed action is being taken to determine the Toll Rate Schedule resulting from the Florida Department of Transportation’s construction of an interchange at SR 710/Northlake Boulevard and Florida’s Turnpike. The Toll Rate Public Hearing is being held in conjunction with the Design Public Hearing for the SR 710/Northlake Boulevard interchange project, Financial Project ID 232074-1. The required Toll Rate Rule Development Workshop was held on November 29, 2000.

SPECIFIC AUTHORITY: 334.044(2) FS.

LAW IMPLEMENTED: 338.222, 338.231, 338.155 FS.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: No Statement of Estimated Regulatory Cost 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 in writing within 21 days of this notice.

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

TIMES AND DATE: Thursday, September 26, 2002, Informal Open House: 6:00 p.m.; Formal Hearing: 7:00 p.m.

PLACE: Palm Beach Gardens Community High School, 4245 Holly Drive, Palm Beach Gardens, Florida

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: James C. Myers, Administrative and Management Support Level IV, Florida Department of Transportation, Office of the General Counsel, 605 Suwannee Street, Mail Station 58, Tallahassee, Florida 32399-0458

THE FULL TEXT OF THE PROPOSED RULE IS:

14-15.0081 Toll Facilities Description and Toll Rate Schedule.

The Toll Facilities Description and Toll Rate Schedule, adopted November 15, 1987, and amended on February 8, 1988, August 1, 1988, February 2, 1989, May 10, 1989, July 1, 1991, August 1, 1991, November 6, 1991, July 11, 1993, November 28, 1993, September 18, 1994, June 6, 1995, July 9, 1995, January 1, 1996, March 31, 1996, April 28, 1996, June 2, 1996, July 28, 1996, September 23, 1997, November 24, 1997, February 12, 1998, June 30, 1998, July 29, 1998, January 6, 1999, February 9, 1999, April 29, 1999, June 21, 1999, September 4, 2001, and March 26, 2002, and _____, is hereby incorporated by this rule and made a part of the rules of the Department. Copies of this Department of Transportation Toll Facilities Description and Toll Rate Schedule and any amendments thereto are available at no more than cost.

Specific Authority 334.044(2), 338.155(1) FS. Law Implemented 338.222, 338.231, 338.155 FS. History—New 11-15-87, Amended 2-8-88, 8-1-88, 2-2-89, 5-10-89, 7-1-91, 8-1-91, 11-6-91, 7-11-93, 11-28-93, 9-18-94, 6-6-95, 7-9-95, 1-1-96, 3-31-96, 4-28-96, 6-2-96, 7-28-96, 9-23-97, 11-24-97, 2-12-98, 6-30-98, 7-29-98, 1-6-99, 2-9-99, 4-29-99, 6-21-99, 9-4-01, 3-26-02, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE:

James Ely, Executive Director, Florida's Turnpike Enterprise

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Ken Morefield, Assistant Secretary for Transportation Policy, for Thomas F. Barry, Jr., P.E., Secretary

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: August 13, 2002

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: October 6, 2000, with Notice of Rescheduled Workshop published November 3, 2000

STATE BOARD OF ADMINISTRATION

RULE TITLES:	RULE NOS.:
Reimbursement Contract	19-8.010
Insurer Reporting Requirements	19-8.029

PURPOSE AND EFFECT: These rules are promulgated to implement Section 215.555, Florida Statutes, regarding the Florida Hurricane Catastrophe Fund, for the 2002-2003 contract year.

SUMMARY: Rule 19-8.010, F.A.C. adopts the amended reimbursement contract for the contract year 2002-2003 and Rule 19-8.029, F.A.C., adopts amended forms for insurer reporting of losses and adopts the amended forms for reporting of exposure to the Florida Hurricane Catastrophe Fund for the 2002-2003 contract year. The proposed amendments to these rules (and the forms incorporated therein) will reflect the addition of coverage under the Fund for certain collateral protection policies and for certain additional living expenses pursuant to CS/HB 385 which became law on May 29, 2002 and CS/SB 1418 which became law on May 9, 2002. These changes, along with some minor technical changes, are contained in emergency rules 19ER02-1 and 19ER02-2, which were filed and became effective on June 13, 2002.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: The Board has prepared a statement and found the cost to be minimal.

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: 215.555(3) FS.

LAW IMPLEMENTED: 215.555(2),(3),(4),(5),(6),(7) FS.

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

TIME AND DATE: 9:00 a.m. – 12:00 Noon, Monday, September 16, 2002

PLACE: Room 116 (Hermitage Conference Room), 1801 Hermitage Blvd., Tallahassee, FL 32308

Any person requiring special accommodations to participate in this proceeding is asked to advise Patti Elsbernd at least five (5) calendar days before such proceeding.

Patti Elsbernd may be reached by telephone at (850)413-1346 or by mail at P. O. Box 13300, Tallahassee, FL 32317-3300.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Jack E. Nicholson, Chief Operating Officer of the Florida Hurricane Catastrophe Fund, State Board of Administration, P. O. Box 13300, Tallahassee, FL 32317-3300, (850)413-1340

THE FULL TEXT OF THE PROPOSED RULES IS:

19-8.010 Reimbursement Contract.

(1) through (7) No change.

(8) The amended reimbursement contract for the 2002-2003 contract year required by Section 215.555(4), Florida Statutes, which is called Form FHCF-2002K – “Reimbursement Contract” or “Contract” between (name of insurer) (the “Company”)/NAIC # () and The State Board of Administration of the State of Florida (“SBA”) which Administers the Florida Hurricane Catastrophe Fund (“FHCF”), is hereby adopted and incorporated by reference into this rule. This contract is effective from June 1, 2002 through May 31, 2003.

(9) No change.

Specific Authority 215.555(3) FS. Law Implemented 215.555 FS. History—New 5-31-94, Amended 8-29-95, 5-19-96, 6-19-97, 5-28-98, 5-17-99, 9-13-99, 6-19-00, 6-3-01, 6-2-02.

19-8.029 Insurer Reporting Requirements.

(1) through (2)(c) No change.

(d) For the 2002/2003 contract year, the reporting shall be in accordance with the following: Form FHCF-D1A, “Amended Florida Hurricane Catastrophe Fund 2002 Data Call,” rev. 5/02 and Form FHCF-MOD, “CLASIC DATA FORMAT (tm) for Excess Insurance, Version 1.1,” rev. 3/27/01. The two forms identified in the immediately preceding sentence are hereby adopted and incorporated by reference. For new companies, the company shall report its actual exposure as of December 31 of the contract year on or before March 1 of the contract year, to the Administrator on Form FHCF-D1B, “Amended Florida Hurricane Catastrophe Fund 2002 Data Call for Newly Licensed Companies,” rev. 5/02; and Form FHCF-MOD, “CLASIC DATA FORMAT (tm) for Excess Insurance, Version 1.1,” rev. 3/27/01. The two forms identified in the immediately preceding sentence are hereby adopted and incorporated by reference.

(3) Loss Reimbursement Reporting Requirements.

(a) As directed by the Board, after a covered event occurs, insurers shall report all their losses for covered policies (ground-up losses, without regard for the insurer’s retention) on Form FHCF-L1A, “Florida Hurricane Catastrophe Fund Interim Loss Report,” rev. 5/02 ~~10/98~~, which is hereby adopted and incorporated by reference. Prompt reporting in the format requested will aid the Board in determining whether to seek additional sources of funds to pay for reimbursable losses. The losses reported on Form FHCF-L1A are expected to result from a good faith effort on the part of the insurer to report as accurately as possible. Preliminary reports will not be binding. Reimbursements by the Fund will be made on the basis of Form FHCF-L1B, adopted below, and on the basis of quarterly adjustments thereafter. After the initial report of ground-up

losses on Form FHCF-L1A, only insurers expecting to exceed their retentions for covered losses are required to comply with paragraph (b), below.

(b) If an insurer expects covered losses to exceed its retention, it shall report its paid and outstanding covered losses for each occurrence as of month-end by the fifteenth of the following month in accordance with the table below:

Submit Form FHCF-L1A Monthly

For Losses as of	By
06/30/XX	07/15/XX
07/31/XX	08/15/XX
08/31/XX	09/15/XX
09/30/XX	10/15/XX
10/31/XX	11/15/XX
11/30/XX	12/15/XX

(c) Insurers shall report their annual covered losses (all losses regardless of an insurer’s retention) for each occurrence on or before December 31 of the contract year during which the covered event occurs and quarterly thereafter on the date the quarter ends on Form FHCF-L1B, “Florida Hurricane Catastrophe Fund Proof of Loss Report,” rev. 5/02 ~~10/98~~, which is hereby adopted and incorporated by reference. In reporting losses, deductibles shall be applied first to the coverages provided by the FHCF, ~~that is, to structure and/or contents.~~ Deductibles shall not be applied first to any coverages not provided by the FHCF ~~such as additional living expense.~~ For the quarterly report due on 3/31, any insurer whose losses reach or exceed 50% of its FHCF retention shall report its losses on Form FHCF-L1B. For the quarterly report due on 6/30, any insurer whose losses reach or exceed 75% of its FHCF retention shall report its losses on Form FHCF-L1B. For the quarterly reports due on 9/30 and thereafter, any insurer which anticipates that its losses will reach 100% or more of its FHCF retention shall report its losses on Form FHCF-L1B until all its losses are paid to its policyholders and the insurer has received reimbursement from the Fund. Each insurer which has recoveries from the Fund and which has reinsurance recoveries other than recoveries from the Fund shall complete Form FHCF-L1C, “Florida Hurricane Catastrophe Fund Proof of Loss Report/Reinsurance Recovery Worksheet,” rev. 5/02 ~~5/00~~, which is hereby adopted and incorporated by reference. For purposes of this rule, quarterly loss reports shall be those reports submitted at each quarter end date after December 31 of the contract year in which the covered event occurs and continuing until all claims and losses resulting from loss occurrences commencing during the contract year are fully discharged, in accordance with the reporting requirements in this paragraph.

(d) As a result of reports submitted on Form FHCF-L1B and Form FHCF-L1C, reimbursements to insurers shall be adjusted in accordance with Section 215.555(4)(b)3., Florida Statutes, which prohibits an insurer’s recovery from all sources

to exceed 100 percent of its losses from a covered event, and in accordance with Section 215.555(4)(d)1., Florida Statutes, which requires the Fund to pay additional amounts to insurers and insurers to return overpayments to the Fund, based on the most recent calculation of losses.

(4) No change.

Specific Authority 215.555(3) FS. Law Implemented 215.555(2)-(7),(15) FS. History—New 5-17-99, Amended 6-19-00, 6-3-01, 6-2-02, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Jack E. Nicholson, Chief Operating Officer, Florida Hurricane Catastrophe Fund, State Board of Administration

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: The Trustees of the State Board of Administration

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: August 13, 2002

STATE BOARD OF ADMINISTRATION

RULE TITLES:	RULE NOS.:
Asset Transfer Procedures: True up Transfer for Initial Transfers Occurring between 7/1/02 and 3/31/03	19-10.002
Asset Transfer Procedures	19-10.003

PURPOSE AND EFFECT: These two amended rules provide for additional asset transfer procedures as required by Section 121.4501(3)(c)4., Florida Statutes.

SUMMARY: Proposed amended Rule 19-10.002, F.A.C., reflects revised enrollment procedures and reflects statutory changes for the true-up transfer after the initial transfer of assets for public employees choosing to move from the defined benefit program of the Florida Retirement System to the defined contribution program. Proposed amended rule 19-10.003 provides revised enrollment procedures for those employees who become employed after the dates for the initial transfers.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: The Board has prepared a statement and found the cost to be appropriately divided between the defined benefit program and the defined contribution program. 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: 121.4501(3)(c)4., (8)(a) FS.
 LAW IMPLEMENTED: 121.4501(2),(3), (4),(5),(6), (8),(15), 121.71, 121.73, 121.74, 121.78, 215.44(8)(b) FS.
 IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE HELD AT THE TIME, DATE AND PLACE SHOWN BELOW:
 TIME AND DATE: 9:30 a.m. – 11:30 a.m., Tuesday, September 17, 2002

PLACE: Room 116 (Hermitage Conference Room), 1801 Hermitage Blvd., Tallahassee, Florida 32308

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Cindy Gokel, Assistant General Counsel, State Board of Administration, P. O. Drawer 13300, Tallahassee, FL 32317-3300; tel.: (850)413-1199

THE FULL TEXT OF THE PROPOSED RULES IS:

19-10.002 Asset Transfer Procedures: True up Transfer for Initial Transfers Occurring Between 7/1/02 and 3/31/03.

(1) Purpose. The primary purpose of this rule is to implement subsection (3)(c)4 of Section 121.4501, Florida Statutes, regarding procedures for transferring assets from the current defined benefit plan of the Florida Retirement System to the new defined contribution program, called the Public Employee Optional Retirement Program. However, since the implementation procedures will necessarily involve several other entities, the roles and responsibilities of those entities are part of this rule.

(2) Definitions.

(a) “ABO” means the present value of the member’s accumulated benefit obligation in the defined benefit program of the Florida Retirement System to which the member would be entitled if the member retired from the current defined benefit plan. This present value shall be calculated in accordance with the formula set out in Section 121.4501(3)(c)2., Florida Statutes. This amount will be shown on the Benefit Comparison Statement which is included in the material sent to each potential Participant, Form SBA-DC 1 (PEORP election), rev. 3/2001, (the enrollment form), and will be called the “current value of my FRS benefit.” Form SBA-DC 1 (PEORP election), rev. 3/2001, is adopted and incorporated by reference in Rule 19-10.001, Florida Administrative Code.

(b) “Division” means the Division of Retirement within the Department of Management Services.

(c) “Effective date of enrollment in PEORP” means the date on which the employee is entitled to receive employer contributions for his PEORP account or accounts in accordance with Section 121.71 421.571(2), Florida Statutes.

(d) “Effective enrollment in PEORP” means that the employee has completed ~~the enrollment form; that the completed enrollment form has been received by the employee’s employer; that the employer has forwarded the completed enrollment form to the TPA; that the TPA has entered the employee into its recordkeeping system; and that the TPA has informed the division and the employee’s employer~~ of the employee’s effective date of enrollment in PEORP.

(e) “Employee” means an eligible employee as defined in Section 121.4501(2)(d), Florida Statutes.

(f) “Employer” means an employer as defined in Section 121.4501(2)(e), Florida Statutes. For purposes of the PEORP, there are three general categories of employers: state agencies; school districts; and local employers.

(g) “Florida Retirement System Trust Fund” or “FRSTF” shall mean the trust fund holding the assets of the defined benefit plan of the Florida Retirement System.

(h) “Participant” means an employee who has joined the PEORP after the effective dates in Section 121.4501(4), Florida Statutes.

(i) “Public Employee Optional Retirement Program” or “PEORP” means the new defined contribution retirement program of the Florida Retirement System established by Section 121.4501, Florida Statutes.

(j) “SBA” means the State Board of Administration.

(k) “TPA” means the third-party administrator hired by the SBA, pursuant to Section 121.4501(8)(b)1., Florida Statutes, to provide administrative services to the PEORP.

(l) “True-up Amount” means the difference between the ABO calculated by using the participant’s actual creditable service and the actual final average compensation as of the participant’s effective date in PEORP and the ABO initially transferred.

(3) Election by Current Employees to Transfer to PEORP from the Defined Benefit Plan of the Florida Retirement System. The procedure for current employees to transfer to PEORP from the Defined Benefit Plan is provided for in Rule 19-10.001.

(4) The total amount initially credited to each PEORP participant’s account who chooses to move his or her ABO out of the Defined Benefit Plan is an estimate of the participant’s ABO as calculated by the division, in accordance with the provisions of Rule 19-10.001. Thereafter, pursuant to Section 121.4501(3)(c)3., Florida Statutes, the division shall recompute the ABO not later than 60 days after the initial transfer of funds and, if the recomputed amount differs from the transferred ABO amount by \$10 or more, the division shall cause an adjustment of the transfer of assets between PEORP account(s) of the affected participant(s) and the FRSTF through a true-up transfer in accordance with that statutory section.

(5) If the recomputed ABO is greater than the initial amount transferred by \$10 or more, the amount to be transferred to the participant’s PEORP account from the FRSTF will equal the excess of the recomputed ABO over the amount initially transferred plus interest. The amount transferred to each investment product shall be based on the percentage of total investment allocated to each investment product by the participant on his or her election form as adopted and incorporated by reference in Rule 19-10.001.

(6) If the recomputed ABO is less than the original amount transferred by \$10 or more, the TPA shall cause to be transferred from the participant’s PEORP account to the

FRSTF an amount equal to the excess of the initial amount transferred over the recomputed ABO plus interest. The amount transferred from each investment product shall be based on the percentage of total investment allocated to each investment product by the participant on his or her election form as adopted and incorporated by reference in Rule 19-10.001.

(7) The division shall notify the SBA of the aggregate true-up amount plus interest within 45 days of the initial transfer. The division shall notify the TPA of the true-up amounts plus interest by participant account within 45 days of the initial transfer. The true-up transfer shall include the true-up amount determined by the division plus interest at the rates specified in Section 121.4501(3)(c)3., Florida Statutes, from the date of the initial transfer to the date of the true-up transfer. The transfer of the true-up amount plus interest shall occur on the 60th day following the initial transfer. In the event the 60th day following the initial transfer falls on a Saturday, Sunday, or a legal holiday, the true-up transfer shall occur on the last business day preceding the Saturday, Sunday, or legal holiday.

(8) The division shall calculate the interest owed on true-up amounts. If the recomputed ABO is greater than the original amount transferred by \$10 or more, the participant will be owed a true-up amount plus interest. Interest will be calculated using the rate of 8% effective annual interest, compounded annually, and the number of days from the date of the initial transfer to the date of the true-up transfer, as specified in subsection (7), above. If the recomputed ABO is less than the original amount transferred by \$10 or more, the participant will owe a true-up amount plus interest. Interest will be calculated on the amount owed based upon 6% effective annual interest, compounded annually, and the number of days from the date of the initial transfer to the date of the true-up transfer.

(9) Costs associated with the liquidation or transfer of assets from the FRSTF to the PEORP will be deducted from the FRSTF. The FRSTF will not be responsible for any transaction costs associated with the purchase or liquidation of PEORP assets. Those costs will be deducted from PEORP accounts or otherwise charged to PEORP participants.

(10) In order to effectively and efficiently administer the investment programs of the SBA and in accordance with Section 215.44(8)(b), Florida Statutes, the records and other information relating to investments made by the SBA will be confidential and exempt from Chapter 119, Florida Statutes, until 30 days after completion of each investment transaction.

Specific Authority 121.4501(3)(c)4,(8)(a) FS. Law Implemented 121.4501(2),(3),(4),(5),(6),(8),(15), 121.71 ~~421.571(1),(2)~~, 215.44(8)(b) FS. History—New 9-19-01. Amended

19-10.003 Asset Transfer Procedures:

For Employees who Become Eligible to Participate in PEORP by Reason of Employment in a Regularly Established Position with a State Employer Commencing After ~~April 1 June 1~~, 2002; or with a District School Board Employer Commencing After ~~July 1 September 1~~, 2002; or with a Local Employer Commencing After ~~October 1 December 1~~, 2002.

(1) Purpose. The primary purpose of this rule is to implement section 121.4501(3)(c)4., Florida Statutes, regarding procedures for transferring assets from the current defined benefit plan of the Florida Retirement System to the new defined contribution program, called the Public Employee Optional Retirement Program. However, since the implementation procedures will necessarily involve several other entities, the roles and responsibilities of those entities are part of this rule.

(2) Definitions.

(a) "ABO" or the accumulated benefit obligation means the present value of a member's benefit in the defined benefit program of the Florida Retirement System to which the member would be entitled if the member retired from the current defined benefit plan. This present value shall be calculated in accordance with the formula set out in Section 121.4501(3)(c)2., Florida Statutes. ~~This amount will be shown on Form SBA-PEORP election, rev. 3/2001, (The Enrollment Form) and will be titled the "current value of my FRS benefit."~~

(b) "Division" means the Division of Retirement within the Department of Management Services.

(c) "Effective date of enrollment in PEORP" means the date on which the employee is entitled to receive employer contributions for his PEORP account or accounts in accordance with Section ~~121.71 121.571(2)~~, Florida Statutes.

(d) "Effective enrollment in PEORP" means that the employee has completed ~~the enrollment form; that the completed enrollment form has been received by the employee's employer; that the employer has forwarded the completed enrollment form to the TPA; that the TPA has entered the employee into its recordkeeping system; and that the TPA has informed the division and the employee's employer of the employee's effective date of enrollment in PEORP.~~

(e) "Employee" means an eligible employee as defined in Section 121.4501(2)(d), Florida Statutes.

(f) "Employer" means an employer as defined in Section 121.4501(2)(e), Florida Statutes. For purposes of the PEORP, there are three general categories of employers: state agencies; school districts; and local employers.

(g) "Florida Retirement System Trust Fund" or "FRSTF" shall mean the trust fund holding the assets of the defined benefit plan of the Florida Retirement System.

(h) "Participant" means an employee who elects to join the PEORP after the effective dates in Section 121.4501(4)(a)1., (b)1. or (c)1., Florida Statutes.

(i) "Public Employee Optional Retirement Program" or "PEORP" means the new defined contribution retirement program of the Florida Retirement System established by Section 121.4501, Florida Statutes.

(j) "SBA" means the State Board of Administration.

(k) "TPA" means the third-party administrator hired by the SBA, pursuant to Section 121.4501(8)(b)1., Florida Statutes, to provide administrative services to the PEORP.

(3) Election by employees who become eligible to participate in PEORP by reason of employment in a regularly established position with a state employer commencing after ~~April June 1~~, 2002; or with a district school board employer commencing after ~~July September 1~~, 2002; or with a local employer commencing after ~~October December 1~~, 2002.

(a) For employees hired after the initial PEORP enrollment dates specified in Section 121.4501(4)(a)1., (b)1., or (c)1., Florida Statutes, the employee ~~may shall have 180 days after his/her employment commences to~~ enroll in the PEORP no later than the end of the 5th month following the employee's month of hire or may to elect to remain in the defined benefit plan.

(b) Employees hired after the initial PEORP enrollment dates specified in Section 121.4501(4)(a)1., (b)1., or (c)1., Florida Statutes, must complete an enrollment form, ~~Form SBA-DC 2 (PEORP - New Employee Election), rev. 5/2001, which is hereby adopted and incorporated by reference. This form may be obtained from the State Board of Administration, 1801 Hermitage Boulevard, Suite 100, Tallahassee, Florida 32308.~~ by providing the following information:

1. Employee's name and social security number;

2.a. For an employee who is not a member of any of the investment options detailed in b. through f., below, a selection as to whether the employee wishes to stay in the FRS Pension Plan, or transfer his ABO to the FRS Investment Plan, or transfer to the FRS Investment Plan and keep his ABO in the FRS Pension Plan; or

b. For an employee who is a member of the State Senior Management Service, a selection as to whether the employee wishes to elect:

i. The FRS Pension Plan; or

ii. The FRS Investment Plan and have future employer contributions sent to the FRS Investment Plan account; or

iii. To retain any accrued benefit in the FRS Pension Plan benefit and switch prospectively into the FRS Investment Plan, which requires that the employee must have 5 years of previous Pension Plan service to select this option iii; or

iv. To switch prospectively to the Senior Management Service Optional Annuity Program (SMSOAP) and retain any accrued benefit in the FRS Pension Plan or the FRS Investment Plan, which requires that the choice form must be received no later than 4 PM Eastern Time on the 90th day from the employee's date of hire, in accordance with Section 121.055(6)(c)2., Florida Statutes;

c. For a local employee who is eligible for the Senior Management Service Class, a selection as to whether the employee wishes to elect:

i. The FRS Pension Plan; or

ii. The FRS Investment Plan and have all future employer contributions sent to the FRS Investment Plan account; or

iii. To retain any FRS Pension Plan benefit and switch prospectively into the FRS Investment Plan, which requires that the employee must have 5 years of previous Pension Plan service to select this option iii; or

iv. To withdraw from the Florida Retirement System, which requires contacting the employee's employer and submitting the appropriate form to that employer;

d. For an employee who is eligible for the State University System Optional Retirement Program (SUSORP), a selection as to whether the employee wishes to elect:

i. To join SUSORP and retain any accrued benefit in the FRS Pension Plan or the FRS Investment Plan, which requires making such election no later than the 90th day after the date of hire by executing a contract with a SUSORP provider company and which also requires that faculty members employed at J. Hillis Miller Center at the University of Florida or the Medical Center at the University of South Florida shall elect this option, which requires the selection to be made no later than 4 PM Eastern Time on the 90th day from the employee's date of hire, in accordance with Section 121.35(3), Florida Statutes; or

ii. To join the FRS Pension Plan which must be completed no later than the 90th day from the date of hire; or

iii. To transfer the present value, if any, of the FRS Pension Plan benefit to the FRS Investment Plan and to have future contributions sent to the FRS Investment Plan account; or

iv. To switch prospectively to the FRS Investment Plan and retain any accrued benefit in the FRS Pension Plan, which requires that the eligible employee must have 5 years of previous Pension Plan service to select this option iv;

e. For an employee who is eligible for the Community College Optional Retirement Program, a selection as to whether the employee wishes to elect:

i. To join the FRS Pension Plan; or

ii. To join the FRS Investment Plan and to transfer any accrued benefit from the FRS Pension Plan to the FRS Investment Plan and to have future employer contributions sent to the FRS Investment Plan account; or

iii. To join the FRS Investment Plan and to retain any accrued benefit in the FRS Pension Plan which requires that the eligible employee must have 5 years of previous Pension Plan service to select this option iii; or

iv. To withdraw from the Florida Retirement System and participate in the Community College Optional Retirement Program (CCORP) which requires that the selection must be completed within 60 days of commencing CCORP qualifying employment, in accordance with Section 240.3195(3), Florida Statutes;

f. For an employee who is eligible for the Elected Officers' Class, a selection as to whether the employee wishes to elect:

i. To join the FRS Pension Plan; or

ii. To join the FRS Investment Plan and to transfer any accrued benefit from the FRS Pension Plan to the FRS Investment Plan and to have future employer contributions sent to the FRS Investment Plan account; or

iii. To join the FRS Investment Plan and to retain any accrued benefit in the FRS Pension Plan which requires that the eligible employee must have 5 years of previous Pension Plan service to select this option iii; or

iv. To join the Senior Management Service Class of the FRS Pension Plan and retain any accrued benefit in the FRS Investment Plan, which requires the eligible employee to make the choice no later than the last day of the 6th month after assuming his elected office, in accordance with Section 121.052(3)(a), Florida Statutes; or

v. To switch prospectively to the State Senior Management Service Optional Annuity Program or to a local government Optional Annuity Program and retain any accrued benefit in the FRS Pension Plan or FRS Investment Plan, which selection must be made no later than the last day of the 6th month after assuming elected office and that the employee must be a state elected officer to select this option v; or

vi. To withdraw from the Florida Retirement System and participate in a local government Optional Annuity Program, which decision is irrevocable so long as the employee holds a position which is eligible for the Senior Management Service program and which election must be made no later than the last day of the 6th month after assuming elected office and that the employee must be a state elected officer to select this option vi; or

vii. To withdraw from the Florida Retirement System altogether, which means that the employee will not participate in the Florida Retirement System or any retirement plan offered by his employer; that the effective date of the election will be the date he assumed elected office; that the employee can rejoin the Elected Officers Class upon written request; that the employee's decision must be made no later than the last day of the 6th month after assuming elected office; and that this option vii is not available to any member who has already retired from a State of Florida administered retirement plan.

3. Clearly indicate primary and secondary beneficiaries, if any; the relationship of the person to the employee; the beneficiaries' social security numbers; the beneficiaries dates of birth; and what percentage of the employee's benefits the employee wishes each beneficiary to receive;

4. Select any combination of investment funds from among any of the balanced funds and other investment funds shown, provided, however, that the percentage of the employee's contributions for all of the funds selected must equal 100;

5. Sign and date a section indicating that, depending on which options were selected as described in Section 1 of the form and in subparagraph 2., above:

a. The employee understands that he can obtain a description of his rights and responsibilities under the FRS Pension Plan and the FRS Investment Plan by calling a toll-free number or accessing an internet website;

b. The employee understands the elections he has made by choosing among the various options available to him as described in Section 1 of the form and in subparagraph 2., above;

c. The employee understands that if he has elected the FRS Investment Plan, the initial ABO is an estimate which will be reconciled within 60 days and that if the employee is a member of the FRS Investment Plan Hybrid Option, he cannot make this choice unless he has at least 5 years of Pension Plan service and that if he is currently a member of the FRS Pension Plan, the election may constitute his second choice as provided under Section 121.4501(4)(e), Florida Statutes;

d. The employee understands that he should review the fund profiles and the Investment Fund Summary before choosing investment funds and that information will be available electronically unless the employee requests hard copies and that if the employee does not choose specific funds, his assets will be invested in the FRS Select Moderate Balanced Fund;

e. The employee understands that investment management fees may change and that funds may be added or terminated and that if funds are terminated, the employee has the choice of moving his assets into other investment options or, if the employee does not make an affirmative decision, his assets will be moved in the FRS Select fund with the most similar risk characteristics or into a replacement fund designated by the Plan's Trustees;

f. The Florida Statutes incorporate federal law concepts of participant control so that if the employee exercises control over his assets in accordance with section 404(c) of the federal Employee Retirement Income Security Act of 1974, no program fiduciary shall be liable for any loss to his account which results from the employee's control;

g. The employee understands that he has a one time opportunity to switch plans and that to switch to the Pension Plan there will be a buy-in cost for doing so;

h. The employee understands that if he has chosen the Senior Management Service Optional Annuity Program, he must contact the plan marketing companies to receive information about investment funds; that his participation in any other state-administered retirement plan is inactivated once enrolled in SMSOAP; that he is not eligible for disability benefits; that his SMSOAP election is irrevocable so long as he is employed in a SMSOAP position; that the State of Florida does not guarantee or insure SMSOAP benefits; and that any employee contributions to SMSOAP are not tax-deferred;

i. The employee understands that if he has chosen to withdraw from the Florida Retirement System, that his participation in any other state-administered retirement plan is inactivated once the withdrawal is complete; that he is not eligible for disability benefits; that his withdrawal decision is irrevocable so long as he is employed in a position eligible for participation in the Senior Management Service Class;

j. The employee understands that if he has chosen the State University System Optional Retirement Program (SUSORP), he must contact the plan marketing companies to receive information about investment funds; that his participation in any other state-administered retirement plan is inactivated once enrolled in SUSORP; that he cannot participate in SUSORP if he is a retiree or receiving an annuity payment from the SUSORP; that he is not eligible for disability benefits; that his SMSOAP election is irrevocable so long as he is employed in a SUSORP position; that the State of Florida does not guarantee or insure SUSORP benefits; and that any employee contributions to SUSORP are tax-deferred;

k. The employee understands that if he has chosen to withdraw from the Florida Retirement System and participate in the Community College Optional Retirement Program (CCORP), he must contract with the individual provider company(ies) for CCORP within 60 days of his employment; that failure to join CCORP will make him a compulsory member of the FRS Pension Plan; that by electing to withdraw from the Florida Retirement System, he must become a program participant in the CCORP's lifetime monthly annuity program; that his participation in any other state-administered retirement plan is inactivated once enrolled in CCORP; that he is not eligible for disability benefits; and that his SMSOAP election is irrevocable so long as he is employed in a CCORP eligible position;

l. The elected employee understands that if he has chosen to join the SMSOAP, he must be an elected officer; and that he must contact the marketing company(ies) to receive information about the plan; that his participation in any other state-administered retirement plan is inactivated; that the State of Florida does not guarantee or insure any benefits paid under the program; and that any employee contributions he makes are not tax-deferred;

m. The elected employee understands that if he has chosen to withdraw from the Florida Retirement System and participate in a local government annuity program, his effective date will be the first day of the month following the receipt of his written election to the FRS Plan Choice Administrator

n. The elected employee understands that if he has chosen to withdraw from the Florida Retirement System altogether, he may rejoin upon written request and that this option is not available to members who have already retired from a State of Florida administered retirement plan.

6. For employees who have chosen to participate in the Senior Management Service Optional Annuity Program, fill out a section designating marketing companies and contribution amounts for that option and check a statement that the employee has reviewed the investment fund options offered by the marketing companies and has signed the necessary contract(s) with the company(ies) for the deposit of the employees contributions as authorized in the section.

7. For employees who have chosen to participate in the State University System Optional Retirement Program, fill out a section designating marketing companies and contribution amounts for that option and check a statement that the employee has reviewed the investment fund options offered by the marketing companies and has signed the necessary contract(s) with the company(ies) for the deposit of the employees contributions as authorized in the section.

~~8.(e) The enrollment form shall be complete and the election shall be final if all the required information is clearly indicated and if the enrollment form is received by the TPA by 4 PM Eastern Time. Specifically, the form shall include a statement that the employee elects to remain in the defined benefit program, elects to transfer to the PEORP with a transfer of his or her ABO, or elects to transfer to the PEORP without a transfer of his or her ABO which shall then remain in the defined benefit plan.~~

~~(c)(d) The TPA employer shall determine that the employee's enrollment in PEORP is within the prescribed time period 180 days, the form in toto is complete, and the employee's election is clearly indicated. If the TPA employer determines that the form is incomplete, the form shall be returned to the employee and resubmitted when complete.~~

~~(e) If the employee has elected to enroll in PEORP and the employer has determined the form is complete, it shall be distributed as follows:~~

- ~~1. One copy of the completed form is retained by the employee.~~
- ~~2. One copy of the completed form is retained by the employer.~~
- ~~3. One copy of the completed form is forwarded by the employer to the TPA.~~
- ~~4. One copy of the completed form is forwarded by the employer to the division.~~

~~(d)(f)1. The employer shall submit the enrollment forms for employees electing to enroll in PEORP during the month to the TPA and the division on the last business day of the month. Enrollment in the optional program for employees under this rule shall be effective on the first day of the month for which a full month's employer contribution is made to the optional program.~~

~~2. Example: If the employer submits the enrollment forms are received during the month of June by June 30th, the employee's effective date of enrollment in PEORP is July 1st.~~

~~(e) Upon receipt of the completed form by the TPA, the TPA shall enroll the employee in the PEORP. Upon completion of the enrollment, but no later than two three working days after enrollment, the TPA shall send confirmation of the effective enrollment to the employee at the employee's home address, to the employee's employer, and to the division to inform the division that the employee is no longer in the defined benefit plan.~~

~~(f) Employers shall pay retirement contributions monthly for their PEORP employees and those contributions are due to the division by the 5th working business day of the month following the month for which the contributions are made. The employer shall correct its employee records to reflect that the contribution rates effective on the effective date of enrollment, in accordance with Section 121.571(2), Florida Statutes, are applicable to those of its employees who have elected to transfer to PEORP.~~

~~(4) Asset Transfer Procedures.~~

~~(a) For employees who elect to transfer to PEORP with a transfer of his or her ABO, the division shall determine the amount of the employee's ABO. This amount shall be transferred to the employee's PEORP account and shall be allocated to each investment product selected by the participant on his or her election form as adopted and incorporated by reference in this rule.~~

~~(b)1. The division shall determine the employee's ABO as of the last day of the month prior to the employee's effective date of enrollment in PEORP.~~

~~2. Example: If the division receives the enrollment form during the month of June, the effective date of enrollment for the employee in PEORP is July 1. The division shall determine the employees accumulated benefit through June 30.~~

~~(c) By the 15th day of the month, the division shall notify the TPA of the ABO for each employee whose effective date of enrollment is the first day of the month and the division shall notify the SBA of the aggregate ABO of employees whose effective date of enrollment is the first day of the month.~~

~~(d) Within 30 days of the employee's effective date of enrollment in PEORP, the SBA shall transfer the aggregate ABO amount to the PEORP custodian for distribution to PEORP participant accounts. Such distribution shall be~~

directed by the TPA and shall be based on the percentage of total investment allocated to each investment product by the participant on his or her election form.

(e) Once a new employee has made an election to transfer to PEORP or remain in the defined benefit plan, that election is irrevocable, even though the enrollment 180-day period may not have expired. Section 121.4501(4)(e), Florida Statutes, provides one additional opportunity for an employee to change his or her mind after the employee's enrollment 180-day election period.

(5) Costs associated with the liquidation or transfer of assets from the FRSTF to the PEORP will be deducted from the FRSTF. The FRSTF will not be responsible for any transaction costs associated with the purchase of PEORP assets. Those costs will be deducted from PEORP accounts or otherwise charged to PEORP participants.

(6) The amount transferred to each investment product shall be based on the percentage of total investment allocated to each fund by the participant on his or her election form as adopted and incorporated by reference in this rule, in subsection (3)(a), above. However, pursuant to Section 121.4501(4)(d), Florida Statutes, amounts not specified will be invested in the default option designated in the Investment Policy Statement, as approved by the Trustees on January 29, 2002 ~~February 27, 2001~~, and adopted and incorporated by reference in Rule 19-9.001.

(7) In order to effectively and efficiently administer the investment programs of the SBA and in accordance with Section 215.44(8)(b), Florida Statutes, the records and other information relating to investments made by the SBA will be confidential and exempt from Chapter 119, Florida Statutes, until 30 days after completion of each investment transaction.

Specific Authority 121.4501(3)(c)4,(8)(a) FS. Law Implemented 121.4501(2),(3),(4),(5),(6),(8),(15), 121.73, 121.74, 121.78 ~~421.571(1),(2), 215.44(8)(b)~~ FS. History--New 9-19-01, Amended.

NAME OF PERSON ORIGINATING PROPOSED RULE: Coleman Stipanovich, Interim Executive Director, State Board of Administration

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Trustees of the State Board of Administration

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: August 13, 2002

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: June 28, 2002

STATE BOARD OF ADMINISTRATION

RULE TITLE: Procedures Regarding Employer Contributions

RULE NO.:

19-11.001

PURPOSE AND EFFECT: This proposed new rule implements new Section 121.78, Florida Statutes, enacted during the 2002 legislative session, in HB 1973. This section

addresses payment and distribution of employer contributions for the defined contribution pension plan of the Florida Retirement System, called the Public Employee Optional Retirement Program.

SUMMARY: Proposed new Rule 19-11.001, F.A.C., provides definitions; implements the delinquency fee; and provides a method for market loss calculation.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: The Board has prepared a statement and estimated the cost to be minimal.

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 121.78(3)(c) FS.

LAW IMPLEMENTED 121.78 FS.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE HELD AT THE TIME, DATE AND PLACE SHOWN BELOW:

TIME AND DATE: 2:30 p.m. – 4:00 p.m., Tuesday, September 17, 2002

PLACE: Room 116 (Hermitage Conference Room), 1801 Hermitage Blvd., Tallahassee, Florida 32308

THE FULL TEXT OF THE PROPOSED RULE IS:

19-11.001 Procedures Regarding Employer Contributions.

(1) Purpose. This rule implements Section 121.78, Florida Statutes, and establishes procedures regarding employer contributions; late payrolls; assessments; and market losses.

(2) Definitions.

(a) "Public Employee Optional Retirement Program" or "PEORP" shall mean the optional defined contribution plan within the Florida Retirement System, established in Part II of Chapter 121, Florida Statutes.

(b) "PEORP Participant" shall mean an active member of the Florida Retirement System who has elected to join the PEORP.

(c) "PEORP Participant's accounts" or "PEORP accounts" shall mean investment accounts for an individual PEORP Participant in which employer contributions are invested for a PEORP Participant.

(d) For purposes of Section 121.78(2), Florida Statutes, which requires that retirement contributions be made in a timely manner, the word "timely" shall mean that contributions are deposited into the PEORP Participant's account no later than the 15th day of the month following the month in which a covered payroll occurs. If the 15th day of the month falls on a weekend or legal holiday, then contributions must be deposited by the next business day which is not a weekend or a legal holiday.

(e) For purposes of Section 121.78(3)(b), Florida Statutes, which states that employers shall reimburse PEORP Participants for market losses resulting from late contributions, the term "market losses" shall be defined as the value of a Participant's account that otherwise would have been realized had the employer contribution and accompanying payroll data been submitted on a timely basis. "Market losses" applies only to the monthly contribution that is late, not to the Participant's aggregate value in his PEORP account.

(f) "PEORP third party administrator" or "TPA" shall mean the third party administrator hired by the Florida State Board of Administration pursuant to Section 121.4501(8), Florida Statutes.

(3) One percent penalty.

(a) The portion of the one percent penalty assessed on late contributions and accompanying payroll data attributable to contributions for the PEORP shall be deposited into the Participant's account on a pro rata basis, using the PEORP Participant's investment allocation in effect at the time of the deposit of the assessment in the Florida Retirement System Trust Fund.

(b) Any employer requesting a waiver of the delinquency fee in accordance with Section 121.78(3)(c) shall fully explain and certify such waiver request in writing to the Office of Defined Contribution, Florida State Board of Administration, 1801 Hermitage Blvd., Suite 100, Tallahassee, Florida 32308.

(4) Market loss calculation.

(a) The TPA will determine market losses using a PEORP Participant's investment allocation in effect at the time of calculation. The TPA will perform the market value calculation using a period certain which begins on the 15th day of the month, or next succeeding business day if the 15th day falls on a weekend or a legal holiday, in which contributions would have been processed, and ending on the date used by the TPA to provide "as of" pricing for covered payroll.

(b) If contributions and accompanying payroll data are not received within the calendar month they are due, but that lateness does not result in market losses to participants, only the one percent late assessment will apply to the employer.

(c) The TPA will not perform the market loss calculation until a covered payroll and accompanying payroll data is received and processed by the TPA.

Specific Authority 121.78(3)(c) FS. Law Implemented 121.78 FS. History--New

NAME OF PERSON ORIGINATING PROPOSED RULE:
Coleman Stipanovich, Interim Executive Director, State Board of Administration

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Trustees of the State Board of Administration

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: August 13, 2002

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: June 28, 2002

STATE BOARD OF ADMINISTRATION

RULE TITLES:	RULE NOS.:
Definitions	19-12.001
Distribution of Benefits	19-12.006
Acceptance of Rollovers	19-12.007

PURPOSE AND EFFECT: These proposed new and amended rules effect compliance with the Internal Revenue Code for the defined contribution pension plan of the Florida Retirement System, called the Public Employee Optional Retirement Program.

SUMMARY: Proposed amended Rule 19-12.001, F.A.C., provides definitions. Proposed amended Rule 19-12.006, F.A.C., indicates statutory changes in the requirements for the distributions of benefits. Proposed new Rule 19-12.007, F.A.C., provides for the acceptance of rollovers in compliance with the Economic Growth and Tax Relief Reconciliation Act of 2001 which permitted rollovers if state legislation were enacted. The Florida Legislature enacted such legislation in CS/HB 807 during the 2002 session.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: The Board has prepared a statement and estimated the cost to be minimal.

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 121.4501(5)(c), (13) FS.

LAW IMPLEMENTED 121.4501(1), (5)(c), (7), (13), 121.591 FS.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE HELD AT THE TIME, DATE AND PLACE SHOWN BELOW:

TIME AND DATE: 2:30 p.m. – 4:00 p.m., Tuesday, September 17, 2002

PLACE: Room 116 (Hermitage Conference Room), 1801 Hermitage Blvd., Tallahassee, Florida 32308

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Cindy Gokel, Assistant General Counsel, State Board of Administration, P.O. Drawer 13300, Tallahassee, FL 32317-3300, (850)413-1199

THE FULL TEXT OF THE PROPOSED RULES IS:

19-12.001 Definitions.

The following words and terms shall have the following meanings for purposes of this Chapter:

(1) "Annual addition" means the sum for any limitation year of (a) all employer and employee contributions which are treated as annual additions to a defined contribution plan for purposes of s. 415(c) of the Code and (b) forfeitures. Examples

of such contributions to a defined contribution plan include the following: contributions to the Public Employee Optional Retirement Program; contributions to the Senior Management Service Optional Annuity Program described in s. 121.055(6), F.S.; contributions to a Code s. 401(k) plan; employer contributions to an individual retirement account; voluntary employee contributions to accounts in a defined benefit plan [but not including contributions to a qualified cost-of-living arrangement in accordance with Code s. 415(k)]; amounts allocated to the separate account of a key employee for post-retirement medical benefits described in Code s. 419A(d)(2); and contributions to an individual medical benefit account, as described in Code s. 415(l). Examples of contributions which are not annual additions for purposes of s. 415(c) of the Code as applied to the Public Employee Optional Retirement Program include the following: rollover contributions or transfers from another eligible retirement plan to the Public Employee Optional Retirement Program; contributions to a Code s. 403(b) annuity plan; contributions to a Code s. 457 deferred compensation plan; and contributions which are additional elective deferrals under Code s. 414(v). ~~With respect to the Public Employee Optional Retirement Program, contributions are those specifically provided for in, or specifically permitted pursuant to, ss. 121.4501 and 121.571, F.S.~~

(2) “Benefits” is used in the same sense, and has the same meaning, as used in s. 121.4501(7), F.S.

(3) “Code” means the U.S. Internal Revenue Code, as amended.

(4) “Compensation” means all items of compensation specified in specified in Treas. Reg. s. 1.415-2(d)2, increased by any elective deferral as defined in Code s. 402(g)(3) or any amount which is contributed by the Employer at the election of the employee and which is not includible in the gross income of the employee by reason of Code ss. 125, ~~or 457~~ or 132(f).

(5) “Defined contribution plan” means a plan which provides for an individual account for each participant and for benefits based solely on the amount contributed to the participant’s account, and any income, expenses, gains and losses, and any forfeitures of accounts of other participants which may be allocated to such participant’s account.

(6) “Direct rollover” means a payment by the Public Employee Optional Retirement Program to the eligible retirement plan specified by the distributee.

(7) “Distributee” means a Participant or former Participant. In addition, the Participant’s or former Participant’s surviving spouse and the Participant’s or former Participant’s spouse or former spouse who is the alternative payee under a qualified domestic relations order, as defined in Code s. 414(p), are distributees with regard to the interest of the spouse or former spouse.

(8) “Eligible retirement plan” means an individual retirement account described in Code s. 408(a), an individual retirement annuity described in Code s. 408(b), an annuity plan described in Code s. 403(a), an annuity contract described in Code s. 403(b), an eligible deferred compensation plan described in Code s. 457(b) which is maintained by an eligible employer described in Code s. 457(e)(1)(A) or a qualified trust described in Code s. 401(a), that accepts the distributee’s eligible rollover distribution.

(9) “Eligible rollover distribution” means any distribution of all or any portion of the balance of the Participant’s account(s) in the Public Employee Optional Retirement Program to the credit of the distributee. An eligible rollover distribution does not include any distribution which is made upon hardship of the employee; any distribution that is one of a series of substantially equal periodic payments (not less frequently than annually) made for the life (or life expectancy) of the distributee or the joint lives (or joint life expectancies) of the distributee and the distributee’s designated beneficiary, or for a specified period of ten years or more; any distribution to the extent such distribution is required under Code s. 401(a)(9); the portion of any distribution that is not includible in gross income, unless transferred in accordance with the provisions of Code s. 402(c)(2) to a qualified trust which is part of a plan which is a defined contribution plan, or to an individual retirement account described in Code s. 408(a) or an individual retirement annuity described in Code s. 408(b); or a deemed distribution of a loan under Code s. 72(p).

(10) “Employer” means an employer as defined in s. 121.4501(2)(e), F.S.

(11) “Limitation year” is the consecutive 12 month period of time to which Code limitations with respect to contributions and forfeitures are applied. For the Public Employee Optional Retirement Program, the limitation year is the calendar year.

(12) “Participant” means a participant of the Public Employee Optional Retirement Program as defined in s. 121.4501(2)(f), F.S.

(13) “Plan” means the Public Employee Optional Retirement Program of the Florida Retirement System created by ch. 2000-169, Laws of Florida, as set forth in Part II of ch. 121, F.S.

Specific Authority 121.4501(13)(a), ~~(5)(c)~~ FS. Law Implemented 121.4501(1),(7)(a),(13) FS. History—New 11-20-01, Amended.

19-12.006 Distribution of Benefits.

(1) All distribution of benefits from a Participant’s account(s) in the Plan shall begin and be made no later than as prescribed by Code s. 401(a)(9) and the regulations issued thereunder, including any proposed regulations, and shall be subject to the incidental death benefit rules of Code s. 401(a)(9)(G).

(a) Distribution of benefits to a Participant shall be made or commence not later than April 1 following the close of the later of the calendar year during which the Participant attains age 70 1/2 or retires.

(b) If distribution of benefits has commenced before a Participant's death, any remaining benefits must be distributed at least as rapidly as under the method of distribution being used as of the date of the Participant's death.

(c) If a Participant dies before the commencement of distributions from the Participant's account(s) in the Plan, the method of distribution shall be as follows:

1. Any benefits not payable to a beneficiary designated by the Participant shall be distributed within five years after the Participant's death.

2. Any benefits payable to a beneficiary designated by the Participant shall be distributed over the life of such beneficiary (or over a period certain not extending beyond the life expectancy of such beneficiary), commencing not later than the end of the calendar year immediately following the calendar year in which the Participant died. If the designated beneficiary is the surviving spouse of the Participant, distributions shall commence on or before the later of the end of the calendar year immediately following the calendar year in which the Participant died and the end of the calendar year in which the Participant would have attained age 70 1/2.

3. If the designated beneficiary is the surviving spouse of the Participant and the surviving spouse dies before distributions to such spouse begin, this paragraph (c) shall be applied as if the surviving spouse were the Participant.

(2) Benefits shall be distributed to a Participant as a periodic distribution, a partial lump-sum payment whereby a portion of the accrued benefit is paid to the Participant less withholding taxes remitted to the Internal Revenue Service and the remaining amount is transferred directly to the custodian of an eligible retirement plan on behalf of the Participant, or as otherwise provided by s. ~~121.591(1)(c)~~ ~~4501(7)(d)~~, F.S. Benefits shall be distributed to a survivor as provided in s. ~~121.591(3)(c)~~ ~~4501(7)(e)~~, F.S. A distributee shall have the option to have all or any portion of an eligible rollover distribution paid directly to an eligible retirement plan specified by the distributee in a direct rollover.

(3) All distributions of benefits must be made in accordance with Code provisions, which shall override any distribution options inconsistent with such provisions.

Specific Authority 121.4501(13)(a) FS. Law Implemented 121.4501(1), 121.4501(7)(a),(13), 121.591 FS. History--New 11-20-01, Amended.

19-12.007 Acceptance of Rollovers.

(1) Notwithstanding the definitions of Rule 19-12.001, F.A.C., for purposes of this section the following words and terms have the following meanings: "Rollover" means either a direct rollover or a contribution of an eligible rollover distribution to the Plan for the benefit of the distributee that

satisfies the time period requirement and other requirements of Code s. 402(c). A "direct rollover" means an eligible rollover distribution that is made directly to the Plan by an eligible retirement plan for the benefit of the distributee. An "eligible rollover distribution" means any distribution of all or any portion of the balance to the credit of the distributee in an eligible retirement plan. Except for that portion of a distribution not includible in gross income which is transferred directly to the Plan in accordance with Code s. 402(c)(2), an eligible rollover distribution does not include any of the distributions described in the second sentence of the definition of "eligible rollover distribution" in Rule 19-12.001, F.A.C. An "eligible retirement plan" means any of the types of plans included in the definition of "eligible retirement plan" in Rule 19-12.001, F.A.C., that makes the distributee's eligible rollover distribution.

(2) It is intended that the Plan accept rollovers in accordance with the requirements of this section. Except as otherwise provided, below, before accepting a rollover to the Plan the administrator evaluating the rollover shall first obtain sufficient evidence to support a reasonable conclusion that the rollover is valid under the Code and shall determine that such rollover meets the requirements of this section.

(3) The Plan administrator shall accept that portion of a distribution in a direct trustee-to-trustee transfer which has been identified by the eligible retirement plan making the distribution as not includible in gross income if such portion is otherwise eligible for rollover. Such amount shall be accounted for separately, including separately accounting for the portion of such distribution which is includible in gross income and the portion of such distribution which is not so includible.

(4) Only cash will be accepted in a rollover to the Plan. Payment to the Plan must be by check. In a direct rollover the check should be made payable to the "SBA as trustee of the Public Employee Optional Retirement Program Trust Fund FBO (the participant's name)." Instructions regarding check delivery and other information relating to the processing of rollovers may be obtained by the program's employee phone line or website.

(5) Rollovers to the Plan shall be accounted for separately.

Specific Authority 121.4501(5)(c) FS. Law Implemented 121.4501(5)(c) FS. History--New _____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Coleman Stipanovich, Interim Executive Director, State Board of Administration

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Trustees of the State Board of Administration

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: August 13, 2002

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: June 28, 2002

DEPARTMENT OF MANAGEMENT SERVICES

RULE CHAPTER TITLE:	RULE CHAPTER NO.:
Prohibition of Smoking in State Offices	60-8
RULE TITLES:	RULE NOS.:
Purpose and Scope	60-8.001
Definitions	60-8.002
Prohibition	60-8.003
No-Smoking Areas	60-8.004
Action By Department Officials and Employees	60-8.005
Posting of Signs	60-8.006
Enforcement, Penalties	60-8.007

PURPOSE AND EFFECT: To implement the “Florida Clean Indoor Air Act,” Chapter 386, Part II, Florida Statutes, and to assure a smoke-free environment to protect the health and well being of state employees and members of the public who do business with state agencies.

SUMMARY: The rules define smoking, prohibit smoking in all buildings and offices owned by or leased to the Department of Management Services and all Department owned vehicles.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: No statement of estimated regulatory cost was prepared.

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

SPECIFIC AUTHORITY: 386.205 FS.

LAW IMPLEMENTED: 386.202, 386.203, 386.204 FS.

IF REQUESTED 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., September 18, 2002

PLACE: The Department of Management Services, Room 260L, 4050 Esplanade Way, Tallahassee, Florida

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Julia P. Forrester, Assistant General Counsel, Office of the General Counsel, Department of Management Services, 4050 Esplanade Way, Suite 260, Tallahassee FL 32399-0950, (850)414-0240, forresj@dms.state.fl.us

THE FULL TEXT OF THE PROPOSED RULES IS:

60-8.001 Purpose and Scope.

(1) This rule chapter establishes a smoking policy for the Department of Management Services and implements the “Florida Clean Indoor Air Act,” Chapter 386, Part II, F.S., and is intended to protect the public health, comfort and environment by ensuring that Department buildings and vehicles are free from tobacco smoke.

(2) This rule chapter recognizes the right of non-smokers to be free of annoying and harmful secondary tobacco smoke, which has been determined by the Surgeon General of the United States to be a substantial health hazard.

(3) This rule chapter applies to all Department buildings, the area within fifty (50) feet of any Department building, Department vehicles, and to any public meeting held by the Department.

Specific Authority 386.205 FS. Law Implemented 386.202, 386.203, 386.204 FS. History–New _____.

60-8.002 Definitions.

(1) “Department building” means any building or that portion of a building owned, leased, or rented by the Department on behalf of the State of Florida or one of its agencies.

(2) “Non-smoker” means a person who is not a smoker.

(3) “Smoker” means a person who uses a lighted tobacco product.

(4) “Smoking” or “to smoke” means possession of a lighted cigarette, lighted cigar, lighted pipe, or any other lighted tobacco product, except temporarily possessing a tobacco product lighted by another for purposes of immediate extinguishment.

Specific Authority 386.205 FS. Law Implemented 386.202, 386.203, 386.204 FS. History–New _____.

60-8.003 Prohibition.

No person may smoke in or within fifty (50) feet of a Department building, in a Department vehicle, or in a public meeting held by the Department.

Specific Authority 386.205 FS. Law Implemented 386.202, 386.203, 386.204 FS. History–New _____.

60-8.004 No-Smoking Areas.

All areas in all Department buildings or within fifty (50) feet thereof, and all Department vehicles, shall be known as “no-smoking areas.” No loitering shall be permitted within the no-smoking area and no seating for smokers may be provided. Additionally, no containers for the disposal of cigarettes, cigars, pipe tobacco or other tobacco products or the ash or residue of such tobacco products shall be permitted within the no-smoking area.

Specific Authority 386.205 FS. Law Implemented 386.202, 386.203, 386.204 FS. History–New _____.

60-8.005 Action by Department Officials and Employees.

The policy promulgated herein requires specific actions by certain Departmental units as follows:

(1) A copy of this rule chapter shall be furnished to any person requesting it, and distributed to all current employees upon the effective date of this rule chapter.

(2) All new employees shall be provided a copy of this rule chapter by the Bureau of Personnel Management.

(3) This rule chapter shall be posted on the Department’s internet site.

(4) Signs shall be posted informing persons that smoking is prohibited.

(5) The Division of Facilities Management and Building Construction shall be responsible for ensuring the implementation of this rule chapter.

(6) The full cooperation of all supervisors and employees is expected to ensure that this smoking policy is enforced. Supervisors are specifically directed to assure that these rules are fully enforced during employees’ breaks from work.

Specific Authority 386.205 FS. Law Implemented 386.202, 386.203, 386.204 FS. History–New

60-8.006 Posting of Signs.

(1) The Division of Facilities Management and Building Construction shall post no-smoking signs as appropriate.

(2) At all entrances of a building owned by or leased to the Department or any portion of any building owned by or leased to the Department, a sign shall be posted advising persons that smoking is prohibited.

(3) The Department may post signs in all areas not already covered in (1) and (2) above to advise persons that smoking is prohibited.

(4) Signs shall be posted in all Department vehicles advising that smoking is prohibited.

Specific Authority 386.205 FS. Law Implemented 386.202, 386.203, 386.204 FS. History–New

60-8.007 Enforcement, Penalties.

(1) Any employee who is found to have violated any provision of this rule chapter shall be subject to discipline in accordance with Chapter 60-6, F.A.C.

(2) All persons are hereby advised that pursuant to Section 386.208, F.S., smoking where prohibited constitutes a non-criminal violation punishable by a fine of not more than \$100 for the first violation and not more than \$500 for each subsequent violation.

Specific Authority 386.205 FS. Law Implemented 386.202, 386.203, 386.204 FS. History–New

NAME OF PERSON ORIGINATING PROPOSED RULE:
Cynthia A. Henderson, Secretary, Department of Management Services

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Cynthia A. Henderson, Secretary, Department of Management Services

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: August 13, 2002

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: July 12, 2002

DEPARTMENT OF MANAGEMENT SERVICES

Agency for Workforce Innovation

RULE CHAPTER TITLE:	RULE CHAPTER NO.:
Florida Partnership for School Readiness	60BB-4
RULE TITLES:	RULE NOS.:
Definitions	60BB-4.100
General Eligibility Provisions	60BB-4.200
Eligibility for Children at Risk of Abuse or Neglect	60BB-4.201
Eligibility for Children at Risk of Welfare Dependency	60BB-4.202
Eligibility for Children in Working Families Whose Income Does Not Exceed 150 Percent of the Federal Poverty Level	60BB-4.203
Eligibility for Three-and Four-Year-Old Children Who May Not be Economically Disadvantaged But Who Have Been Served in a Specific Part-Time or Combination of Part-Time Exceptional Education Programs With Required Special Services, Aids, or Equipment, and Were Previously Reported for Funding Part Time with the Florida Education Finance Program as Exceptional Students	60BB-4.204
Economically Disadvantaged Children, Children with Disabilities, and Children at Risk of Future School Failure, From Birth to Four (4) Years of Age, Who are Served at Home Through Home Visitor Programs and Intensive Parent Education Programs Such as the Florida First Start Program	60BB-4.205
Eligibility for Children Who Meet Federal and State Requirements for Eligibility for the Migrant Preschool Program but Who do not Meet the Criteria of Economically Disadvantaged	60BB-4.206
Eligibility for Children of Participants in the Relative Caregiver Program	60BB-4.207
Verification of Employment and Income	60BB-4.208
Redetermination of Eligibility	60BB-4.209
Maintaining Eligibility; Breaks in Employment	60BB-4.210
Waiting List Procedures	60BB-4.300

PURPOSE AND EFFECT: To adopt rules to administer the provisions of Chapter 411.01, Florida Statutes, which relate to preparing and implementing the system for school readiness.

SUMMARY: These rules address definitions, eligibility and the waiting list for the school readiness programs.

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: 120.53(1)(b), 411.01(4)(k) FS.

LAW IMPLEMENTED: 411.01(2)(b), 411.01(4)(a), 411.01(5)(c),(d), 411.01(6), 411.01(9)(d) FS.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE HELD AT THE TIMES, DATES AND PLACES SHOWN BELOW:

TIME AND DATE: 9:00 a.m. – completion, Thursday, September 12, 2002

PLACE: Duval County School Board, Rm. 125, 1701 Prudential Drive, Jacksonville, FL 32209, (Contact Person: Pat, (904)390-2115)

TIME AND DATE: 9:00 a.m. – completion, Friday, September 13, 2002

PLACE: Agency for Workforce Innovation, Caldwell Building, Rm. B-50, 107 East Madison Street, Tallahassee, FL 32399, Contact Person: Jackie Rudd, (850)245-7117

TIME AND DATE: 9:00 a.m. – completion, Wednesday, September 18, 2002

PLACE: Family Central Inc., Rm. 250, 840 S. W. 81 Avenue, North Lauderdale, FL 33068, (954)720-1000, Contact Person: Ivonne Anton (305)908-7350, Julie (954)724-3869

TIME AND DATE: 9:00 a.m. – completion, Thursday, September 19, 2002

PLACE: Crown Plaza Westshore, 700 North Westshore, Tampa, FL 33609, (813)289-8200, Contact Person: Lisa Barnes

TIME AND DATE: 9:00 a.m. – completion, Friday, September 20, 2002

PLACE: Dr. Nelson Ying Center/Heart of Florida United Way, 1940 Traylor Blvd., Orlando, FL 32804, Contact Person: Wendy McLaughin, (407)835-0900, Ext. 275

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: A. Denise Sagerholm, Senior Attorney, 107 E. Madison Street, Caldwell Building, MSC #150, Tallahassee, Florida 32399-4128, (850)245-7150

THE FULL TEXT OF THE PROPOSED RULES IS:

60BB-4.100 Definitions.

(1) Administrative expenditures. “Administrative expenditures” shall include those activities defined as administrative expenditures by 45 C.F.R., s. 98.52, and reported as administrative expenditures for purposes of federal reporting requirements.

(2) Certificate voucher (CERT). Payment by “certificate voucher” or “CERT” means payment for child care services through a certificate issued to a parent, that represents payment that will be made by the coalition to the parent’s chosen child care provider, based upon an invoice for services submitted to the coalition by the selected provider. A voucher must bear the name of the beneficiary and the child care provider and, when redeemed, must bear the signature of both the beneficiary and

an authorized representative of the child care provider. The amount of the certificate voucher shall be negotiated between the selected provider and the coalition, or its designee.

(3) Educational activities. For purposes of fulfilling any work requirement related to eligibility, “educational activities” shall include vocational education, GED preparation, compulsory education, or postsecondary education.

(4) Extended-day. For purposes of fulfilling the statutory requirement that a coalition, on a systemwide basis, provide extended-day and extended-year services, “extended-day” shall mean more than ten (10) hours of service per day. Such requirement may be fulfilled through interagency agreement with an adjoining school readiness coalition.

(5) Extended-year. For purposes of fulfilling the statutory requirement that a coalition, on a systemwide basis, provide extended-day and extended-year services, “extended-year” shall be synonymous with full-year and shall mean the period during which a provider regularly provides services for 245 full days or more. Such requirement may be fulfilled through interagency agreement with an adjoining school readiness coalition.

(6) Family income. For purposes of determining eligibility for school readiness services and assessing parent fees, “family income” means the combined gross income, from all sources, of all members of the family unit who are eighteen (18) years of age or older, including earned and unearned income, and excluding the following:

(a) Food Stamp benefits.

(b) Child support payments made pursuant to a court order.

(c) Alimony paid pursuant to a court order.

(d) Housing assistance payments from HUD issued directly to a landlord and associated utilities expenses.

(7) Family unit. “Family unit” means parent(s) living together, their minor children, and any other children for whom they are legally responsible. A family unit shall also include any additional related adult who resides with the family, and who is financially supported by that family.

(8) Full-choice. For purposes of fulfilling the statutory requirement that each coalition provide school readiness services on a full-day, full-year, full-choice basis, to the maximum extent possible, “full-choice” shall mean a full range of child care settings and payment options, including:

(a) Licensed child care facilities, licensed family day care homes, licensed large family child care homes, licensed mildly ill facilities, registered family day care homes, informal care, faith-based care, and school-based care. Such requirement may be fulfilled through interagency agreement with an adjoining school readiness coalition.

(b) Payment options are through purchase-of-service subcontract or certificate voucher. Payments must be affordable and include a sliding-fee scale.

(9) Full-day. For purposes of fulfilling the statutory requirement that each coalition provide school readiness services on a full-day, full-year, full-choice basis, to the maximum extent possible, “full-day” shall mean availability of a minimum of ten (10) hours of child care per day, including day, night, weekend, and odd hour care. Such requirement may be fulfilled through interagency agreement with an adjoining school readiness coalition.

(10) Full-time. For purposes of establishing reimbursement rates and assessing parent fees, “full-time” (FT) means at least 6 hours or greater and up to and including ten (10) hours of care in a twenty-four (24) hour period.

(11) Indirect services. “Indirect services” include, but are not limited to, those activities delineated by the Florida Partnership for School Readiness document entitled “Activity/Service Code Description Matrix,” which is hereby incorporated by reference and made a part of this rule.

(12) Initial registration. “Initial registration” means the point at which a child is determined eligible for services through a full eligibility determination.

(13) In loco parentis. “In loco parentis” means acting as the temporary legal guardian of a child.

(14) Maximum extent possible. For purposes of fulfilling the statutory requirement that each coalition provide school readiness services on a full-day, full-year, full-choice basis and extended day, to the maximum extent possible, “maximum extent possible” means reasonable efforts to accommodate the school readiness needs of children and families in greater than fifty (50) percent of a coalition’s school readiness programs.

(15) Migrant farmworker. “Migrant farmworker” means:

(a) A migrant agricultural worker or migrant fisher, as defined by 34 CFR § 200.40 (c) and (e), or

(b) An agricultural worker who is employed by more than one agricultural employer during the course of a year, and whose income varies according to weather conditions and market stability.

(16) Parent. “Parent” means a parent by blood, marriage or adoption and also means a legal guardian or a person standing in loco parentis.

(17) Part-time. For purposes of establishing reimbursement rates and assessing parent fees, “part-time” (PT) means less than six (6) hours of care in a twenty-four (24) hour period.

(18) Purchase-of-service subcontract (POS). Payment through “purchase-of-service subcontract” or “POS” means payment for child care services by transfer of funds to a licensed child care provider that has entered into a negotiated service agreement with a coalition, or its designee.

(19) Quality enhancement. “Quality enhancement” initiatives include, but are not limited to, those activities delineated by the Florida Partnership for School Readiness

document entitled “Activity/Service Code Description Matrix,” which is hereby incorporated by reference and made a part of this rule.

(20) Working family. “Working family” means:

(a) A single parent family in which the parent with whom the child resides is employed a minimum of twenty (20) hours per week.

(b) A two parent family in which both parents with whom the child resides are each employed a minimum of twenty (20) hours per week.

(c) A family in which the parents are exempt from work requirements due to age or disability and are unable to care for the child, as determined and documented by a physician licensed under Chapters 458 or 459, Florida Statutes. Eligible educational activities, as defined herein, may be substituted for required hours of employment on an hourly basis. Hours of financially-assisted child care shall be commensurate with hours worked, plus reasonable time for travel.

(21) Unearned income. “Unearned income” shall include:

(a) Child support received pursuant to a court order.

(b) Alimony received pursuant to a court order.

(c) Social Security benefits.

(d) Supplemental security income (SSI).

(e) Worker’s Compensation benefits.

(f) Unemployment Compensation benefits.

(g) Veteran’s benefits.

(h) Retirement benefits.

(i) TANF cash assistance.

(j) Income received from non-family members residing within the same household.

(k) Military FSSA housing assistance.

Specific Authority 411.01(4)(k) FS. Law Implemented 411.01(2)(b),(4)(a),(5)(c),(d),(6),(9)(d) FS. History–New _____.

60BB-4.200 General Eligibility Provisions.

(1) Priority for school readiness services shall be given to:

(a) Children from birth to age five (5).

(b) Children of participants in the welfare transition program from birth to age thirteen (13).

(c) Children at risk of abuse and neglect from birth to age 13.

(2) Pursuant to section 411.01(5)(d)8., Florida Statutes, the provisions of this rule are not intended to limit the authority of a coalition to serve children eligible for any federal subsidized child care program from which the coalition receives funds, such as the following children eligible to be served pursuant to 45 CFR 98.20:

(a) School-age children under age thirteen (13), or

(b) School-age children under age nineteen (19) who are either physically or mentally incapable of self-care or under court supervision.

(3) In order to meet community needs, after giving priority for service to any priority eligibility categories established by the Legislature, a coalition’s plan may include a prioritization of the remaining eligibility categories included in s. 411.01(6), Florida Statutes.

(4) A coalition shall analyze the populations they serve and the needs of the community to ensure that they are able to serve the needs of unique populations pursuant to s. 411.01(5)(d)3.j., Florida Statutes, including the needs of migrant workers, children with special needs, seasonal workers, and employees working less than a twelve (12)-month contract.

Specific Authority 411.01(4)(k) FS. Law Implemented 411.01(2)(b),(4)(a),(5)(c),(d),(6),(9)(d) FS. History–New _____.

60BB-4.201 Eligibility for Children at Risk of Abuse or Neglect.

(1) Initial eligibility.

(a) Eligibility under this category is not dependent on family income or work requirements and will instead be based on a documented referral from the Department of Children and Families, or its contracted provider.

(b) Each referral for this category is valid for six (6) months.

(2) Maintaining eligibility. A child may continue to maintain eligibility under this category if there is a current and valid referral and the provision of school readiness services is part of a continuing protective services plan.

(3) Prior to disenrolling any child under this category, the coalition or its designee shall contact the referral agency to reverify eligibility.

Specific Authority 411.01(4)(k) FS. Law Implemented 411.01(5)(d),(6) FS. History–New _____.

60BB-4.202 Eligibility for Children at Risk of Welfare Dependency.

(1) This category includes the following subcategories, pursuant to s. 411.01(6)(a)2., F.S.:

(a) Participants in the welfare transition program, including:

1. Temporary cash assistance clients, whose children shall be eligible based on a documented referral and documented compliance with statutory welfare transition program requirements by the Department of Children and Families or the local workforce referral agency.

2. Transitional Child Care/Non-Temporary Cash Assistance, whose children shall be eligible based on a documented referral and documented compliance with statutory welfare transition program requirements by the Department of Children and Families or the local workforce referral agency.

(b) Children of migrant farmworkers, who shall be eligible by virtue of meeting the definition of “migrant farmworker” established in rule.

(c) Children of teen parents, who shall be eligible by virtue of meeting the statutory definition of “teen parent” established by s. 411.202(22), Florida Statutes.

(2) Maintaining eligibility.

(a) Pursuant to s. 411.01, Florida Statutes, once determined eligible for school readiness services a child shall remain eligible until he or she reaches kindergarten age. However, eligibility for financially-assisted school readiness services under this category may only continue:

1. Within the time limit for welfare transition services authorized in statute, provided the parent is in compliance with all statutory welfare transition program participation requirements, if the child is eligible based on the parent’s participation in a welfare transition program.

2. For long as the parent meets the definition of a migrant farmworker, if the child is eligible based on being the child of a migrant agricultural worker.

3. For as long as the parent meets the statutory definition of a teen parent, if the child is eligible based on being the child of a teen parent.

(b) The parent or the Department of Children and Families shall within ten (10) calendar days notify the coalition, or its designee, of any change in employment, income, or family size or of any case of noncompliance with the requirements of this rule.

Specific Authority 411.01(4)(k) FS. Law Implemented 411.01(5)(d),(6) FS. History–New _____.

60BB-4.203 Eligibility for Children in Working Families Whose Income Does Not Exceed 150 Percent of the Federal Poverty Level.

(1) Initial eligibility.

(a) Family income, as defined in rule, must be at or below 150 percent of the federal poverty level.

(b) “Working families,” as defined by rule, will be given priority for enrollment under this eligibility category. A coalition may also serve additional children who are determined to be at high risk of school failure, to the extent possible; however, such families must meet the statutory definition of “economically disadvantaged.”

(2) Maintaining eligibility.

(a) Pursuant to s. 411.01, F.S., once determined eligible for school readiness services a child shall remain eligible until he or she reaches kindergarten age. However, eligibility for financially-assisted school readiness services under this category may only continue provided the family’s income is at or below eighty-five (85%) percent of the state median income for a family of the same size as required by 45 CFR 98.20.

(b) A parent must notify the coalition, or its designee, of any change in employment, income, or family size within ten (10) calendar days.

Specific Authority 411.01(4)(k) FS. Law Implemented 411.01(5)(d),(6) FS. History–New _____.

60BB-4.204 Eligibility for Three and Four-Year-Old Children Who May Not be Economically Disadvantaged But Who Have Been Served in a Specific Part-Time or Combination of Part-Time Exceptional Education Programs With Required Special Services, Aids, or Equipment, and Were Previously Reported for Funding Part Time with the Florida Education Finance Program as Exceptional Students.

(1) Initial eligibility. Eligibility under this category is not dependent on family income or work requirements and will instead be based on a documented referral from the Local Education Agency (LEA) certifying that:

(a) The child is participating in a part-time exceptional student education program under part B of the Individuals with Disabilities Education Act (IDEA) 20 U.S.C. § 1401-1420, and

(b) The child has an individualized educational plan (IEP).

(2) School readiness services will be reimbursed only during that portion of the day during which the child is not receiving services from the Department of Education.

Specific Authority 411.01(4)(k) FS. Law Implemented 411.01(5)(d),(6) FS. History—New _____.

60BB-4.205 Economically Disadvantaged Children, Children with Disabilities, and Children at Risk of Future School Failure, From Birth to Four (4) Years of Age, Who are Served at Home Through Home Visitor Programs and Intensive Parent Education Programs Such as the Florida First Start Program.

(1) Initial eligibility.

(a) Family income, as defined in rule, must be at or below 150% of the federal poverty level.

(b) The child must have been identified as being at risk of future school failure, based on criteria established by the coalition.

(2) Maintaining eligibility.

(a) Pursuant to s. 411.01, F.S., once determined eligible for school readiness services a child shall remain eligible until he or she reaches kindergarten age. However, eligibility for financially-assisted school readiness services under this category may only continue provided the family's income is at or below eighty-five (85%) percent of the state median income for a family of the same size as required by 45 CFR 98.20.

(b) A parent must notify the coalition, or its designee, of any change in employment, income, or family size within ten (10) calendar days.

Specific Authority 411.01(4)(k) FS. Law Implemented 411.01(5)(d),(6) FS. History—New _____.

60BB-4.206 Eligibility for Children Who Meet Federal and State Requirements for Eligibility for the Migrant Preschool Program but Who do not Meet the Criteria of Economically Disadvantaged.

(1) Initial eligibility. Eligibility under this category is not dependent on family income or work requirements, but instead be based on a documented referral from the Local Education

Agency (LEA) certifying that the parent(s) meets the federal definition of a migrant agricultural worker or a migrant fisher as defined in 34 CFR § 200.40(c) and (e).

(2) Maintaining eligibility. Once determined eligible under this category, a child will be provided school readiness services as the family moves from location to location for as long as the family meets the federal criteria and until the child reaches kindergarten age, and shall be served in the order of priority established in the coalition's school readiness plan.

Specific Authority 411.01(4)(k) FS. Law Implemented 411.01(5)(d),(6) FS. History—New _____.

60BB-4.207 Eligibility for Children of Participants in the Relative Caregiver Program.

(1) Initial eligibility. Eligibility under this category is not dependent on family income or work requirements and will instead be based on a documented referral from the Department of Children and Families, or its contracted provider.

(2) Maintaining eligibility. A child may continue to maintain eligibility under this category if there is a current and valid referral and the provision of school readiness services is part of a continuing therapeutic plan.

(3) Prior to disenrolling any child under this category, the coalition or its designee shall contact the referral agency to re-verify eligibility.

Specific Authority 411.01(4)(k) FS. Law Implemented 411.01(5)(d),(6) FS. History—New _____.

60BB-4.208 Verification of Employment and Income.

(1) School Readiness Income Worksheet for Eligibility and Parent Fees (SR-100), which is hereby incorporated by reference, shall be completed for every financially assisted school readiness services applicant in order to determine eligibility and to establish the applicable fee, based on the sliding fee scale.

(2) All earned income and unearned income not excluded by rule, and employment, shall be documented.

(3)(a) For all applicants, other than those who are self-employed, each source of earned income, at a minimum, shall be documented by hours of employment and rate of pay based on:

1. Six (6) weekly, three (3) biweekly, or two (2) monthly pay stubs that are current and consecutive, or

2. A signed statement by the employer, or

3. A signed contract for employment.

(b) Self-employed applicants shall provide appropriate documentation sufficient to determine hours worked and income, such as: business account ledgers, written documentation from customers, contractors, or federal tax returns.

(4) Each source of unearned income, as defined by rule, shall be documented, at a minimum, by:

(a) An award letter or verification statement.

(b) A written statement from the absent parent or household member. If the amount varies, then a minimum of six (6) weekly, three (3) biweekly, or two (2) monthly income amounts, for each income source that varies, shall be required and verified.

(5) A teen parent who is emancipated will be considered a separate household and eligibility and income will be determined consistent with the procedures for other households.

(6) A coalition may adopt alternate eligibility documentation procedures to ensure that families who are homeless are not ineligible due to inability to provide certain documentation, such as address or phone number.

Specific Authority 411.01(4)(k) FS. Law Implemented 411.01(5)(d),(6) FS. History--New

60BB-4.209 Redetermination of Eligibility.

(1) At a minimum, redetermination must:

(a) Be conducted at least annually for every family that receives financially-assisted school readiness services. Redetermination for an additional fifty (50) percent of a coalition's enrollment must be conducted during the same fiscal year, through a statistically valid random sample.

(b) Provide verification of income, purpose of care, and compliance with all eligibility requirements.

(2) Parents and providers must be notified if, as a result of any redetermination, a client is determined ineligible and services will be terminated.

Specific Authority 411.01(4)(k) FS. Law Implemented 411.01(5)(d),(6) FS. History--New

60BB-4.210 Maintaining Eligibility: Breaks in Employment.

A family shall maintain eligibility for school readiness services:

(1) During a break in employment, provided employment is re-established within thirty (30) calendar days. During this time, school readiness services will be reimbursed.

(2) During a temporary break in employment for up to sixty (60) calendar days for medical reasons, including maternity leave, if determined medically necessary and documented by a physician licensed under Chapters 458 or 459, Florida Statutes. During this time school readiness services will be reimbursed.

(3) During an interruption in employment, with an option to return to that employment, including such circumstances as seasonal employment or school system-related employment. The client shall not be placed on the waiting list and services will be considered suspended, and not reimbursed, until employment resumes. Care may be re-established upon resumption of employment.

Specific Authority 411.01(4)(k) FS. Law Implemented 411.01(5)(d),(6) FS. History--New

60BB-4.300 Waiting List Procedures.

(1) Each coalition shall utilize a waiting list, which shall be a management tool for filling available child care slots.

(2) Each coalition's waiting list procedure shall consist of:

(a) A preliminary screening for eligibility to determine whether or not a family is potentially eligible for services. The preliminary screening shall include, but need not be limited to, the client's statement of income, family size, and type of care requested.

(b) Placement of eligible children on the waiting list, by the child's legal name, age, probable eligibility category, and type of care requested.

(c) A methodology for prioritizing the waiting list according to eligibility category.

(d) Removal of a child's name from the waiting list upon authorization for placement.

(e) Validation of each name on the waiting list every six (6) months, by response to a letter, by phone, or in person. Notification of such validation must give the parent a specific timeframe to contact the party responsible for validating the waiting list to provide updated information necessary to remain on the waiting list. Names will be removed from the waiting list for failure to comply with the request for information within the specified timeframe or if, upon validation, a purpose for care no longer exists.

(3) An unborn child shall not be eligible for the waiting list.

(4) Actual certification of eligibility will be conducted prior to authorization for placement, which will be based on available funding and capacity.

Specific Authority 411.01(4)(k) FS. Law Implemented 411.01(5)(c) FS. History--New

NAME OF PERSON ORIGINATING PROPOSED RULE: A. Denise Sagerholm, Senior Attorney, 107 E. Madison Street, Caldwell Building, MSC #150, Tallahassee, Florida 32399-4128, (850)245-7150

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Katherine Kamiya, Executive Director, Florida Partnership for School Readiness, the Holland Building, 600 South Calhoun Street, Tallahassee, Florida 32399

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: August 14, 2002

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: August 31, 2001

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

Board of Professional Engineers

RULE TITLE:
Definitions

RULE NO.:
61G15-18.011

PURPOSE AND EFFECT: The Board proposes to define the acronym "FEMC" so that it is comprehensible to the general public.

SUMMARY: The Board defines the acronym "FEMC" with this rule.

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: 471.038, 471.008 FS.

LAW IMPLEMENTED: 471.038 FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Natalie Lowe, Board of Professional Engineers, 2507 Callaway Road, Suite 200, Tallahassee, Florida 32303-5267

THE FULL TEXT OF THE PROPOSED RULE IS:

61G15-18.011 Definitions.

(1) through (4) No change.

(5) "FEMC" shall mean the Florida Engineers Management Corporation, created in Section 471.038(2), Florida Statutes.

Specific Authority 471.003(2)(f), 471.008, 471.013(1)(a)1.,2. FS. Law Implemented 471.003(2)(f), 471.005(6), 471.013(1)(a)1.,2., 471.025(3), 471.033(1)(j) FS. History--New 6-23-80, Amended 12-19-82, 11-22-83, Formerly 21H-18.11, Amended 1-16-91, 4-4-93, Formerly 21H-18.011, Amended 12-22-99, 4-19-01,_____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Board of Professional Engineers

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Board of Professional Engineers

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: August 2, 2002

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: July 19, 2002

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

Board of Professional Engineers

RULE TITLE: RULE NO.:

Written Examination Designated; General Requirements 61G15-21.001

PURPOSE AND EFFECT: The Board proposes to alter certain requirements relating to the reference materials and calculators allowed at the written examination.

SUMMARY: The change in the rule clarifies the description of materials to be used in taking the examination and specifies the amount of reference materials to be allowed into the examination.

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: 455.217(1) FS.

LAW IMPLEMENTED: 471.015, 455.217(1) FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Natalie Lowe, Administrator, Board of Professional Engineers, 2507 Callaway Road, Suite 200, Tallahassee, Florida 32303-5267

THE FULL TEXT OF THE PROPOSED RULE IS:

61G15-21.001 Written Examination Designated; General Requirements.

(1) The Florida Board of Engineers hereby determines that a written examination shall be given and passed prior to any applicant receiving a license to practice as a professional engineer, or as an engineer intern in the State of Florida except as provided in Section 471.015, Florida Statutes. The examination shall be provided by the National Council of Examiners for Engineers and Surveyors (NCEES). The examination consists of two parts, each of eight hours. Candidates are permitted to bring certain reference materials ~~and slide rules and certain~~ calculators. A list of approved reference materials and calculators will be provided to all candidates prior to each examination. Reference materials are limited to fifteen (15) bound volumes. ~~All materials including pens and pencils are to be furnished by the applicant.~~ National examination security requirements as set forth by the NCEES shall be followed throughout the administration of the examination.

(2) Applicants for licensure by examination must be graduates of a Board-approved engineering program as defined in Rule 61G15-20.001, FAC. Acceptance into the engineering intern examination, either in Florida or elsewhere, does not indicate automatic acceptance for the professional engineers examination, nor does it exempt said applicant from meeting the criterial set forth in Chapter 471, F.S., and Chapter 21H, F.A.C.

Specific Authority 455.217(1) FS. Law Implemented 471.015, 455.217(1) FS. History--New 1-8-80, Formerly 21H-21.01, Amended 10-5-92, Formerly 21H-21.001, Amended 11-15-94,_____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Board of Professional Engineers
NAME OF SUPERVISOR OR PERSON WHO APPROVED
THE PROPOSED RULE: Board of Professional Engineers
DATE PROPOSED RULE APPROVED BY AGENCY
HEAD: July 18, 2002
DATE NOTICE OF PROPOSED RULE DEVELOPMENT
PUBLISHED IN FAW: June 7, 2002

**DEPARTMENT OF BUSINESS AND PROFESSIONAL
REGULATION**

Board of Professional Surveyors and Mappers

RULE TITLE: Foreign Degree Evaluation
PURPOSE AND EFFECT: To create a new rule to address foreign degree evaluations.
SUMMARY: The Board proposes to promulgate a new rule to address foreign degree evaluations.
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: 472.013(4) FS.

LAW IMPLEMENTED: 472.013(4) FS.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE SCHEDULED AND ANNOUNCED IN THE NEXT AVAILABLE FLORIDA ADMINISTRATIVE WEEKLY.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Leon Biegalski, Executive Director, Board of Professional Surveyors and Mappers, Northwood Centre, 1940 N. Monroe Street, Tallahassee, Florida 32399-0750

THE FULL TEXT OF THE PROPOSED RULE IS:

61G17-3.003 Foreign Degree Evaluation.

To determine whether an applicant for licensure with a foreign degree has met the educational requirements of Section 472.013(2)(a) or (b), F.S., the applicant must provide the Board with a foreign degree evaluation conducted by an evaluation agency approved by the Board.

Specific Authority 472.013(4) FS. Law Implemented 472.013(4) FS. History—New

NAME OF PERSON ORIGINATING PROPOSED RULE:
Board of Professional Surveyors and Mappers
NAME OF SUPERVISOR OR PERSON WHO APPROVED
THE PROPOSED RULE: Board of Professional Surveyors and Mappers

DATE PROPOSED RULE APPROVED BY AGENCY
HEAD: July 18, 2002
DATE NOTICE OF PROPOSED RULE DEVELOPMENT
PUBLISHED IN FAW: February 22, 2002

**DEPARTMENT OF BUSINESS AND PROFESSIONAL
REGULATION**

Board of Professional Surveyors and Mappers

RULE TITLE: Documentation of Substantially Equivalent
Licensing Examination
PURPOSE AND EFFECT: To create a new rule to clarify and set forth the requirements of Section 5, Chapter 2002-41, Laws of Florida.

RULE NO.: 61G17-3.0031
SUMMARY: The rule set forth the necessary requirements that an applicant must show to prove he or she has completed a substantially equivalent licensing examination.

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: Section 5, Chapter 2002-41, Laws of Florida, 472.008 FS.

LAW IMPLEMENTED: Section 5, Chapter 2002-41, Laws of Florida, 472.008 FS..

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE SCHEDULED AND ANNOUNCED IN THE NEXT AVAILABLE FLORIDA ADMINISTRATIVE WEEKLY.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT IS: Leon Biegalski, Executive Director, Board of Professional Surveyors and Mappers, Northwood Centre, 1940 N. Monroe Street, Tallahassee, Florida 32399-0750

THE FULL TEXT OF THE PROPOSED RULE IS:

61G17-3.0031 Documentation of Substantially Equivalent Licensing Examination.

In order for the Board to determine whether an applicant by endorsement has passed a substantially equivalent licensing examination in another jurisdiction, the endorsement applicant shall provide the Board with documentation which demonstrates that the exam taken in another state is substantially equal in essential and material elements to the licensure examinations required in Rules 61G17-4.001-.002, F.A.C. Essential and material elements shall include, but are not limited to:

- (1) Name and publisher of the exam;
- (2) Time allotted for taking the exam;
- (3) Subject content domains covered by the exam;
- (4) Conditions under which the exam was taken;
- (5) Grading criteria;
- (6) Raw score and scaled passing score
- (7) Exam administration date;
- (8) Exam format (multiple choice/essay?); and
- (9) Exam security procedures.

Specific Authority Section 5, Ch. 2002-41, Laws of Florida, 472.008 FS. Law Implemented Section 5, Ch. 2002-41, Laws of Florida, 472.008 FS. History--New

NAME OF PERSON ORIGINATING PROPOSED RULE:
Board of Professional Surveyors and Mappers
NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Board of Professional Surveyors and Mappers
DATE PROPOSED RULE APPROVED BY AGENCY HEAD: July 18, 2002
DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: June 28, 2002

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

Board of Professional Surveyors and Mappers

RULE TITLE: Seals Acceptable to the Board
RULE NO.: 61G17-7.001
PURPOSE AND EFFECT: To clarify the rule regarding which seal a registrant may use.

SUMMARY: This rule clarifies the seals that a registrant may use based upon the date the registrant was initially licensed.
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: 472.013(4) FS.

LAW IMPLEMENTED: 472.013(4) FS.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE SCHEDULED AND ANNOUNCED IN THE NEXT AVAILABLE FLORIDA ADMINISTRATIVE WEEKLY.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Leon Biegalski, Executive Director, Board of Professional Surveyors and Mappers, Northwood Centre, 1940 N. Monroe Street, Tallahassee, Florida 32399-0750

THE FULL TEXT OF THE PROPOSED RULE IS:

61G17-7.001 Seals Acceptable to the Board.

(1) through (3) No change.

(4) Seal III shall be used only by registrants Registrants who were initially licensed on or after July 1, 1995 and before October 1, 2002.

(5) No change.

(6) All registrants may use Seal IV.

(7)(6) Surveyors and mappers who wish to sign and seal electronically transmitted plats, reports, or other documents shall follow the procedures set forth in Rule 61G17-7.0025, F.A.C.

Specific Authority 472.008, 472.025 FS. Law Implemented 472.025 FS. History--New 1-3-80, Amended 6-9-80, Formerly 21HH-7.01, 21HH-7.001, Amended 5-30-95, 10-25-95, 12-13-99, 11-18-01.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Board of Professional Surveyors and Mappers
NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Board of Professional Surveyors and Mappers
DATE PROPOSED RULE APPROVED BY AGENCY HEAD: July 18, 2002
DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: June 28, 2002

DEPARTMENT OF HEALTH

Board of Clinical Laboratory Personnel

RULE TITLE: Documentation for Licensure
RULE NO.: 64B3-6.002

PURPOSE AND EFFECT: The Board proposes to delete a portion of the existing rule text.

SUMMARY: The Board is eliminating a requirement that the applicant submit two recent passport style photographs for licensure.

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 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) FS.

LAW IMPLEMENTED: 483.815, 483.823 FS.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE HELD AT A TIME, DATE AND PLACE TO BE SCHEDULED AND ANNOUNCED IN THE FAW.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Joe Baker, Jr., Board Executive Director, Board of Clinical Laboratory Personnel, 4052 Bald Cypress Way, Bin #C07, Tallahassee, Florida 32399-3259

THE FULL TEXT OF THE PROPOSED RULE IS:

64B3-6.002 Documentation for Licensure.

The following is a list of acceptable documents which shall be submitted to the Board as appropriate for the type of license sought in order to show eligibility for the license:

(1) through (8) No change.

~~(9) Two 2" x 2" passport style photographs of the applicant taken within six (6) months prior to the date of application. These shall be signed on the front by the applicant.~~

Specific Authority 483.805(4) FS. Law Implemented 483.815, 483.823 FS. History--New 1-9-94, Amended 7-13-94, Formerly 61F3-6.002, Amended 12-28-94, 5-29-95, Formerly 59O-6.002, Amended 8-27-97.

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: June 21, 2002

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: June 21, 2002

DEPARTMENT OF HEALTH

Board of Hearing Aid Specialists

RULE TITLE: Disciplinary Guidelines for Disposition of Disciplinary Cases

RULE NO.: 64B6-7.002

PURPOSE AND EFFECT: The Board proposes to update the existing rule.

SUMMARY: This rule contains a description of each statutory violation and the penalty to be imposed for an initial or repeat offense. It also contains other information such as the purpose of the disciplinary guidelines, aggravating and mitigating circumstances, stipulations and notices of noncompliance.

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

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

SPECIFIC AUTHORITY: 456.079 FS.

LAW IMPLEMENTED: 456.079 FS.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE HELD AT A TIME, DATE AND PLACE TO BE PUBLISHED IN THE NEXT AVAILABLE FLORIDA ADMINISTRATIVE WEEKLY.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Sue Foster, Board Executive Director, Board of Hearing Aid Specialists, 4052 Bald Cypress Way, Bin #C08, Tallahassee, Florida 32399-3258

THE FULL TEXT OF THE PROPOSED RULE IS:

(Substantial rewording of Rule 64B6-7.002 follows. See Florida Administrative Code for present text.)

64B6-7.002 Guidelines for Disposition of Disciplinary Cases.

(1) Purpose. The Board provides within this rule disciplinary guidelines which shall be imposed upon applicants or licensees whom it regulates under Chapter 484, F.S. The purpose of this rule is to notify applicants and licensees of the ranges of penalties which will routinely be imposed unless the Board finds it necessary to deviate from the guidelines for the stated reasons given within this rule. The ranges of penalties provided below are based upon a single count violation of each provision listed and are also provided for repeat violations; multiple counts of the violated provisions or a combination of the violations may result in a higher penalty than that for a single, isolated violation. Each range includes the lowest and highest penalty and all penalties falling between. The purposes of the imposition of discipline are to punish the applicants, licensees, or trainees for violations and to deter them from future violations; to offer opportunities for rehabilitation, when appropriate; and to deter other applicants, licensees, or trainees from violations.

(2) Violations and Range of Penalties. For applicants, all violations are sufficient for refusal to certify an application for licensure. For licensees or trainees, the imposition of probation as a penalty shall ordinarily require compliance with conditions such as restitution, continuing education and/or training, indirect or direct supervision by a Board-approved monitor, restrictions on practice, submission of reports, appearances before the Board, and/or hours of community service. As appropriate, such conditions of probation also shall be required following any period of suspension. In addition to any other discipline imposed, the Board shall assess the actual costs related to the investigation and prosecution of a case. In imposing discipline pursuant to Sections 120.57(1) and 120.57(2), F.S., the Board shall act in accordance with the following disciplinary guidelines and shall impose a penalty as authorized by Section 456.072(2), F.S., within the range corresponding to the violations set forth below. The verbal identification of offenses are descriptive only; the full language of each statutory provision cited must be consulted in order to determine the conduct included:

(a) Section 484.056(1)(a), F.S.: Violating 456.072(1), 484.0512, or 484.053, F.S. -- restitution if applicable and from a minimum fine of \$100 and/or a letter of concern to a maximum fine of \$7,500 and/or revocation. For a second offense, from a minimum fine of \$300 and/or a year of probation to a maximum fine of \$10,000 and/or revocation. After the second offense, from a minimum fine of \$1,000 and/or two years of probation to a maximum fine of \$10,000 and/or revocation.

(b) Section 484.056(1)(b) or 456.072(1)(h), F.S.: Attempting to obtain, obtaining, or renewing a license by bribery – from a minimum fine of \$500 and/or up to two years of probation to a maximum of revocation. After the first offense, from a minimum fine of \$5,000 up to a maximum fine of \$10,000 and/or revocation.

Fraudulent misrepresentation – from a minimum six months of probation and fine of \$10,000 to a maximum of revocation and a fine of \$10,000. After the first offense, a fine of \$10,000 and revocation.

Error of the Department or Board – from a minimum letter of concern and/or \$50 fine up to a maximum of suspension for six months followed by six months of probation and a maximum fine of \$500. For a second offense, from a minimum fine of \$500 to three years suspension of license. After the second offense, up to a maximum fine of \$10,000 and/or revocation.

(c) Section 484.056(1)(c) or 456.072(1)(f), F.S.: Having a license revoked, suspended, denied, or otherwise acted against – imposition of discipline comparable to the discipline that would have been imposed if the substantive violation had occurred in Florida with consideration of any other penalties imposed. After the first offense, action consistent with the disciplinary guidelines for a repeat offense had the violation occurred in Florida.

(d) Section 484.056(1)(d) or 456.072(1)(c), F.S.: Being convicted or found guilty or guilty or nolo plea, regardless of adjudication, of a crime related to the practice or ability to practice – from a minimum fine of \$500 to and/or one year of probation to a maximum fine of \$5,000 and/or revocation. After the first offense, from a minimum fine of \$1,000 and/or two years of probation to a maximum fine of \$10,000 and/or revocation.

(e) Section 484.056(1)(e) or 456.072(1)(l), F.S.: Negligently filing a false report – from a minimum fine of \$250 and a letter of concern up to a maximum fine of \$2,000 and/or up to three years of probation. For a second offense, from a minimum fine of \$1,000 and a reprimand up to a maximum fine of \$10,000 and/or two years suspension followed by probation. After the second offense, up to a maximum fine of \$10,000 and/or revocation.

Willful filing or impeding or inducing another to file a false report – from a minimum fine of \$2,000 and/or suspension of license for three months followed by six months of probation up to a maximum fine of \$8,000 and/or revocation of license. After the first offense, up to a maximum fine of \$10,000 and/or revocation. However, regardless of whether an initial or repeat occurrence, if the violation is for fraud or knowingly making a false or fraudulent representation, the fine portion of the discipline imposed shall be \$10,000 per count or offense.

(f) Section 484.056(1)(f) or 456.072(1)(m), F.S.: False/misleading advertisement or fraudulent representation – from a minimum letter of concern and/or fine of \$1,000 up to a maximum fine of \$5,000 and a year of probation. For a second

offense, from a minimum fine of \$1,500 and/or 18 months of probation to a maximum fine of \$10,000 and/or six months suspension followed by probation. After the second offense, a fine of up to \$10,000 and/or revocation. However, regardless of whether an initial or repeat occurrence, if the violation is for fraud or knowingly making a false or fraudulent representation, the fine portion of the discipline imposed shall be \$10,000 per count or offense.

(g) Section 484.056(1)(g) or 456.072(1)(aa), F.S.: Fraud, deceit, negligence, incompetency, or misconduct in the practice – from a minimum fine of \$300 and/or two years of probation to a maximum fine of \$5,000 and/or up to one year of suspension followed by up to two years of probation. For a second offense, from a minimum fine of \$800 and one year of probation to a maximum fine of \$10,000 and/or revocation. After the second offense, a fine of \$10,000 and/or revocation. However, regardless of whether an initial or repeat occurrence, if the violation is for fraud, the fine portion of the discipline imposed shall be \$10,000 per count or violation.

(h) Section 484.056(1)(h) or 456.072(1)(q), F.S.: Violating an order or failing to comply with subpoena – from a minimum fine of \$500 and a reprimand up to a maximum fine of \$5,000 and/or three years suspension followed by probation. For a second offense, from a minimum fine of \$1,500 and/or two years of probation up to a maximum fine of \$10,000 and/or revocation. After the second offense, from a minimum fine of \$5,000 and/or six months of suspension followed by probation up to a maximum fine of \$10,000 and/or revocation.

(i) Section 484.056(1)(i) or 456.072(1)(o), F.S.: Practicing with a suspended, inactive, or delinquent license or beyond the scope permitted by law – from a minimum fine of \$1,000 and a reprimand up to a maximum fine of \$10,000 and/or revocation. For a second offense, from a minimum fine of \$2,000 and/or one year of probation to a maximum fine of \$10,000 and/or revocation. After the second offense, a fine of \$10,000 and/or revocation.

(j) Section 484.056(1)(j) or 456.072(1)(a), F.S.: Misleading advertising, guarantee, warranty, or representation – from a minimum letter of concern and/or fine of \$1,000 up to a maximum fine of \$5,000 and a year of probation. For a second offense, from a minimum fine of \$1,500 and/or 18 months of probation to a maximum fine of \$10,000 and/or six months suspension followed by probation. After the second offense, a fine of up to \$10,000 and/or revocation. However, regardless of whether an initial or repeat occurrence, if the violation is for fraud or knowingly making a false or fraudulent representation, the fine portion of the discipline imposed shall be \$10,000 per count or offense.

(k) Section 484.056(1)(k), F.S.: Showing or delivering an unusable or impractical product – from a minimum fine of \$1,000 and/or one year of probation to a maximum fine of \$10,000 and/or revocation. For a second offense, a minimum fine of \$1,500 and/or six months suspension followed by one

year probation to a maximum fine of \$10,000 and/or revocation. After the second offense, up to a fine of \$10,000 and/or revocation.

(l) Section 484.056(1)(l), F.S.: Misrepresentation of services available or terms or titles – from a minimum fine of \$200 and/or one year of probation to a maximum fine of \$4,000 and/or two years of probation. For a second offense, from a minimum fine of \$1,000 and/or two years of probation to a maximum fine of \$10,000 and/or revocation. After the second offense, up to a fine of \$10,000 and/or revocation.

(m) Section 484.056(1)(m), F.S.: Less than full disclosure of guarantee – from a minimum letter of concern and/or fine of \$150 to a maximum six months of probation and fine of \$2,500. For a second offense, from a minimum fine of \$300 and/or one year of probation up to a maximum fine of \$5,000 and one year of suspension followed by probation. After the second offense, a fine of up to \$10,000 and/or revocation.

(n) Section 484.056(1)(n), F.S.: Bone conduction disclosure failures – from a minimum letter of concern and/or fine of \$150 to a maximum six months of probation and fine of \$2,500. For a second offense, from a minimum fine of \$300 and/or one year of probation up to a maximum fine of \$5,000 and one year of suspension followed by probation. After the second offense, a fine of up to \$10,000 and/or revocation.

(o) Section 484.056(1)(o), F.S.: Making prognostications as to hearing impairment – from a minimum letter of concern and/or fine of \$150 to a maximum six months of probation and fine of \$2,500. For a second offense, from a minimum fine of \$300 and/or one year of probation up to a maximum fine of \$5,000 and one year of suspension followed by probation. After the second offense, a fine of up to \$10,000 and/or revocation.

(p) Section 484.056(1)(p), F.S.: Implying that use of a hearing aid will improve or hearing or retard impairment – from a minimum letter of concern and/or fine of \$150 to a maximum six months of probation and fine of \$2,500. For a second offense, from a minimum fine of \$300 and/or one year of probation up to a maximum fine of \$5,000 and one year of suspension followed by probation. After the second offense, a fine of up to \$10,000 and/or revocation.

(q) Section 484.056(1)(q), F.S.: Making any statement regarding cure or cause of an impairment by use of a hearing aid – from a minimum letter of concern and/or fine of \$150 to a maximum six months of probation and fine of \$2,500. For a second offense, from a minimum fine of \$300 and/or one year of probation up to a maximum fine of \$5,000 and one year of suspension followed by probation. After the second offense, a fine of up to \$10,000 and/or revocation.

(r) Section 484.056(1)(r), F.S.: Representing aid is custom-made unless this is the case – from a minimum letter of concern and/or fine of \$150 to a maximum six months of probation and fine of \$2,500. For a second offense, from a minimum fine of \$300 and/or one year of probation up to a maximum fine of \$5,000 and one year of suspension followed by probation. After the second offense, a fine of up to \$10,000 and/or revocation.

(s) Section 484.056(1)(s), F.S.: Canvassing house to house to sell aids – Revocation as Section 484.056(2)(b), F.S., requires and a fine of \$500 to \$7,500.

(t) Section 484.056(1)(t), F.S.: Failing to submit proof of testing and calibration of equipment – from a minimum of a reprimand and/or a fine of \$300 to a maximum one year of probation and fine of \$3,500. For a second offense, from a minimum fine of \$500 and/or three months suspension followed by probation up to a maximum fine of \$5,000 and one year of suspension followed by probation. After the second offense, a fine of up to \$10,000 and/or revocation.

(u) Section 484.056(1)(u), F.S.: Failing to provide itemized listing of prices under Section 484.051(1) – from a minimum letter of concern and/or fine of \$150 to a maximum six months of probation and fine of \$2,500. For a second offense, from a minimum fine of \$300 and/or one year of probation up to a maximum fine of \$5,000 and one year of suspension followed by probation. After the second offense, a fine of up to \$10,000 and/or revocation.

(v) Section 484.056(1)(v), 456.072(1)(n) or 456.072(1)(u), F.S.: Exercising influence for financial gain or for other misconduct – from a minimum fine of \$1,000 and/or restitution of improper gains and six months of probation to a maximum suspension of license for two years followed by probation and a fine of \$8,000. After the first offense, up to a maximum fine of \$10,000 and/or revocation.

(w) Section 484.056(1)(w), 456.072(1)(b), 456.072(1)(k) or 456.072(1)(cc), F.S.: Violating Chapter 484 or 456, F.S., or any of the rules adopted thereunder or failing to perform a legal obligation – from a minimum fine of \$300 and/or a letter of concern to a maximum fine of \$7,500 and/or revocation. For a second offense, a minimum fine of \$1,000 and/or six months probation to a maximum fine of \$10,000 and/or revocation. After the second offense, from a minimum fine of \$1,500 and/or one year of probation to a maximum fine of \$10,000 and/or revocation.

(x) Section 456.072(1)(i), F.S.: Failing to report a violator – from a minimum of a reprimand and/or a fine of \$300 to a maximum one year of probation and fine of \$1,500. For a second offense, from a minimum fine of \$500 and/or one year

of probation to a maximum fine of \$7,500 and/or a year of suspension followed by a year of probation. After the second offense, up to a maximum fine of \$10,000 and/or revocation.

(y) Section 456.072(1)(j), F.S.: Aiding unlicensed person to practice – from a minimum fine of \$300 and/or a reprimand to a maximum fine of \$5,000 and three months suspension followed by one year probation. For a second offense, from a minimum \$500 fine and/or one year of probation to a maximum fine of \$10,000 and/or revocation. After the second offense, up to a maximum fine of \$10,000 and/or revocation.

(z) Section 456.072(1)(p), F.S.: Delegating duties to unqualified person – from a minimum fine of \$150 and/or a reprimand to a maximum fine of \$3,000 and two years of probation. For a second offense, from a minimum fine of \$300 and/or 6 months of probation to a maximum fine of \$7,500 and/or one year suspension followed by two years probation. After the second offense, up to a maximum fine of \$10,000 and/or revocation.

(aa) Section 456.072(1)(r), F.S.: Interfering with investigation or proceeding – from a minimum letter of concern and/or a fine of \$300 up to a maximum fine of \$5,000 and two years probation. For a second offense, from a minimum fine of \$1,000 and/or one year probation up to a maximum \$10,000 fine and/or revocation. After the second offense, up to a maximum fine of \$10,000 and/or revocation.

(bb) Section 456.072(1)(w), F.S.: Failing to report criminal conviction: from a minimum letter of concern and/or a fine of \$150 up to a maximum 6 months probation and/or fine of \$1,500. After the first offense, from a minimum fine of \$1,000 and/or two years of probation up to a maximum fine of \$7,500 and or one year suspension followed by one year of probation.

(cc) Section 456.072(1)(y), F.S.: Being unable to practice with reasonable skill and safety – from a minimum referral for a PRN evaluation up to revocation for noncompliance. After the first offense, from a minimum referral for a PRN evaluation up to a maximum of revocation and/or a \$3,000 fine.

(3) Aggravating and Mitigating Circumstances. Based upon consideration of aggravating and mitigating factors present in an individual case, the Board may deviate from the penalties recommended above. The Board shall consider as aggravating or mitigating factors the following:

(a) Exposure of patient or public to injury or potential injury, physical or otherwise;

(b) Legal status at the time of the offense: no restraints, or legal constraints;

(c) The number of counts or separate offenses established;

(d) Actions taken by the licensee to correct the violation or to remedy complaints;

(e) The disciplinary history of the applicant or licensee in any jurisdiction and the length of practice;

(f) Pecuniary benefit or self-gain inuring to the applicant or licensee;

(g) Any other relevant mitigating or aggravating factors.

(4) Stipulations or Settlements. The provisions of this rule are not intended and shall not be construed to limit the ability of the Board to dispose informally of disciplinary actions by stipulation, agreed settlement, or consent order pursuant to Section 120.57(4), F.S.

(5) Notices of Noncompliance and Letters of Guidance. The provisions of this rule cannot and shall not be construed to limit the authority of the probable cause panel of the Board or the Department to send a notice of noncompliance or a letter of guidance pursuant to Sections 456.073(3) and (4), F.S., in any case for which it finds such action appropriate.

(6) Other Action. The provisions of this rule are not intended to and shall not be construed to limit the ability of the Board to pursue or recommend that the Department pursue collateral civil or criminal actions when appropriate.

Specific Authority 456.079 FS. Law Implemented 456.079 FS. History--New 2-11-87, Amended 2-16-89, Formerly 21JJ-7.005, Amended 8-18-93, 9-22-94, Formerly 61G9-7.005. Amended _____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Board of Hearing Aid Specialists
NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Board of Hearing Aid Specialists
DATE PROPOSED RULE APPROVED BY AGENCY HEAD: July 26, 2002
DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: August 2, 2002

DEPARTMENT OF HEALTH

Board of Medicine

RULE TITLE: Exemptions for Persons Not Practicing in Florida; Change of Status
RULE NO.: 64B8-12.007

PURPOSE AND EFFECT: The proposed rule amendments address the requirements for reactivation with regard to financial responsibility.

SUMMARY: The proposed rule amendments delete the requirement for tail insurance when reactivating a license.

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: 458.309, 458.320 FS.

LAW IMPLEMENTED: 458.320 FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Larry G. McPherson, Jr., Executive Director, Board of Medicine/MQA, 4052 Bald Cypress Way, Bin #C03, Tallahassee, Florida 32399-3253

THE FULL TEXT OF THE PROPOSED RULE IS:

64B8-12.007 Exemptions for Persons Not Practicing in Florida; Change of Status.

Persons who are not practicing medicine in Florida may be exempt from compliance with the financial responsibility requirements pursuant to 458.320(5)(b) (licensees with inactive licenses) or 458.320(5)(e) (licensees with active licenses), ~~as created by s. 47, Ch. 86-160, Laws of Florida.~~

(1) A licensee who has claimed an exemption based on the fact that the license is inactive and the licensee is not practicing medicine in Florida and who applies for reactivation of the medical license must, in addition to the other requirements for reactivation, ~~either show that he or she maintained tail insurance for the time periods prescribed by the Statute or~~ submit an affidavit stating that he or she has no unsatisfied medical malpractice judgments or settlements at the time of application for reactivation.

(2) A licensee who has claimed an exemption based on the fact that, although an active license has been maintained, the licensee has not been practicing medicine in Florida must, before initiating or resuming the practice of medicine in this state, notify the Department of the intent to practice in the state and show compliance with the requirements of the financial responsibility law or show exemption therefrom in the manner set forth in Rule 64B8-12.005, F.A.C.

(3) A licensee who is both reactivating an inactive license and initiating or resuming the practice of medicine in Florida must meet the requirements of both ~~(1)(a)~~ and ~~(2)(b)~~ above.

Specific Authority 458.309, 458.320 FS. Law Implemented 458.320 FS. History—New 3-15-87, Formerly 21M-40.007, 61F6-40.007, 59R-12.007, Amended _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Rules Committee, Board of Medicine

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Board of Medicine

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: August 2, 2002

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: May 24, 2002

DEPARTMENT OF HEALTH

Board of Physical Therapy Practice

RULE TITLE: Disciplinary Guidelines RULE NO.: 64B17-7.001

PURPOSE AND EFFECT: The Board proposes to update the existing rule text with regard to disciplinary guidelines.

SUMMARY: This rule revises the disciplinary guidelines and adjusts penalties imposed.

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

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

SPECIFIC AUTHORITY: 456.072, 456.079, 486.025 FS.

LAW IMPLEMENTED: 456.072, 456.073, 456.079, 486.125 FS.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE HELD AT A TIME, DATE AND PLACE TO BE PUBLISHED IN THE NEXT AVAILABLE FLORIDA ADMINISTRATIVE WEEKLY.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Kaye Howerton, Board Executive Director, Board of Physical Therapy Practice, 4052 Bald Cypress Way, Bin #C05, Tallahassee, Florida 32399-3255

THE FULL TEXT OF THE PROPOSED RULE IS:

(Substantial rewording of Rule 64B17-7.001 follows. See Florida Administrative Code for present text.)

64B17-7.001 Disciplinary Guidelines.

(1) When the Board finds that an applicant or licensee whom it regulates has violated the below-listed provisions, it shall issue a final order imposing appropriate penalties, for each count, as set forth in Section 456.072(2), F.S., within the ranges recommended in the following disciplinary guidelines. The identification of offenses are descriptive only; the full language of each statutory provision cited must be considered in order to determine the conduct included. For all persons subject to this rule, probation may include specific compliance conditions and conditions of probation may be required following any period of suspension of license. For applicants, all offenses listed herein are sufficient for refusal to certify an application for licensure. If the Board makes a finding of pecuniary benefit or self-gain related to the violation, then the Board shall require refund of fees billed and collected from the patient or a third party on behalf of the patient. In addition to any other discipline imposed, the Board shall assess the actual costs related to the investigation and prosecution of a case. In addition to or in lieu of any guideline penalties provided herein, if the violation is for fraud or making a false or fraudulent representation, the Board shall impose a fine of \$10,000 per count or offense.

(a) Section 486.125(1)(a) or 456.072(1)(y), F.S.: Unable to practice with reasonable skill and safety – from a minimum fine of \$1,000, three years of probation, and referral for a PRN evaluation, up to a maximum of suspension of license for one year, followed by up to five years of probation. After the first

offense from a \$2,000 fine, referral for a PRN evaluation, and five years of probation to a maximum fine of \$10,000 and/or revocation;

(b) Section 486.125(1)(b) or 456.072(1)(h) F.S.: Obtain license by bribery or deceit – from a minimum fine of \$500 and/or up to two years of probation to a maximum of revocation. For a second offense, from a minimum fine of \$5,000 and three years of probation to revocation. After the second offense, revocation;

Fraud in the practice or obtaining license by fraudulent misrepresentations – from six months probation and a fine of \$10,000 to a maximum of revocation and a fine of \$10,000. For a second offense, a fine of \$10,000 and revocation;

Obtain license by Department or Board error – from a minimum letter of concern and/or a fine of \$500, up to a maximum of suspension of license for one year, followed by two years of probation, and a fine of \$5,000. For a second offense, from a minimum fine of \$5,000 to revocation of license, and after the second offense, revocation of license;

(c) Section 486.125(1)(c) or 456.072(1)(c), F.S.: Guilt of a crime that relates to the practice or the ability to practice – misdemeanor: from a minimum fine of \$1,500 and six months probation, up to a fine of \$5,000 and a year's suspension with conditions. After the first misdemeanor, from a minimum one year of probation, up to a maximum fine of \$10,000 and/or revocation; felony: from a minimum fine of \$5,000 and two years probation, up to a fine of \$10,000 and/or revocation. After the first felony, revocation;

(d) Section 486.125(1)(d), F.S.: Treatment of ailments by means other than physical therapy – from a minimum fine of \$1,000 and one year of probation to a maximum fine of \$5,000 and one year suspension followed by probation. After the first offense, from a minimum fine of \$2,000 and one year of probation to a maximum fine of \$8,000 and/or revocation.

(e) Section 486.125(1)(e) or 456.072(1)(b), F.S.: Failure to maintain acceptable standards of practice as set forth in rules – from a minimum fine of \$1,000 and a letter of concern, up to a maximum fine of \$6,000 and/or two years of suspension followed by two years of probation. For a second offense, from a minimum fine of \$2,000 and six months of probation up to a maximum fine of \$10,000 and/or revocation. After the second offense, up to a fine of \$10,000 and/or revocation;

(f) Section 486.125(1)(f) or 456.072(1)(x), F.S.: Engage in unlawful fee splitting or solicitation – from a minimum fine of \$1,000 and/or one year probation, up to a maximum fine of \$8,000 and/or revocation. After the first offense, from a minimum fine of \$5,000 and/or six months suspension up to a maximum of \$10,000 and/or revocation;

(g) Section 486.125(1)(g) or 456.072(1)(f), F.S.: License acted against in another jurisdiction – action consistent with the disciplinary guidelines for the offense that would have been imposed had the violation occurred in the State of Florida. Same penalty for a second or subsequent offense;

(h) Section 486.125(1)(h) or 456.072(1)(q), F.S.: Violation of an Order or subpoena – from a minimum fine of \$1,000 and a letter of concern, up to a maximum fine of \$10,000 and/or revocation. After the first offense, from a minimum fine of \$5,000 and/or two years of probation up to a maximum fine of \$10,000 and/or revocation of license;

(i) Section 486.125(1)(i) or 456.072(1)(l), F.S.: Negligent filing of false report – from a minimum fine of \$1,000, up to a maximum of two years of probation and a fine of \$5,000. For a second offense, a minimum fine of \$2,500 and a reprimand to a maximum fine of \$10,000 and/or two years suspension followed by two years of probation. After the second offense, up to a maximum fine of \$10,000 and/or revocation;

Willful filing of false report, impeding, or inducing another to file false report – from a minimum of fine of \$5,000 and/or suspension of license for six months, followed by six months of probation, up to a maximum of revocation of license. After the first offense, up to a maximum fine of \$10,000 and/or revocation;

(j) Section 486.125(1)(j) or 456.072(1)(o), F.S.: Practice or offer to practice beyond the scope permitted or competent to perform – from a minimum fine of \$2,500 and/or one year of probation, up to a maximum suspension of license for two years followed by two years of probation and a fine of \$10,000. After the first offense, up to a maximum fine of \$10,000 and/or revocation;

(k) Section 486.125(1)(k) or 456.072(1)(cc), F.S.: Violation of this chapter, Chapter 456, F.S., or any related rules – from a minimum fine of \$1,000 and/or a letter of concern up to a maximum fine of \$5,000 and/or suspension of license for two years followed by two years of probation. For a second offense, from a minimum fine of \$5,000 and/or two years of probation up to a maximum fine of \$10,000 and/or revocation of license. After the second offense, from a minimum fine of \$7,500 and/or six months of suspension followed by probation up to a maximum fine of \$10,000 and/or revocation;

(l) Section 456.072(1)(a), F.S.: Misleading, deceptive, or fraudulent representations - from a minimum of six months of probation and a fine of up to \$10,000 to a maximum fine of \$10,000 and/or revocation. After the first violation, a fine of up to \$10,000 per count or offense and a minimum of three years of probation up to a maximum of revocation;

(m) Section 456.072(1)(d), F.S.: Improper use of laser device – from a minimum fine of \$2,000 and/or one year of probation up to a maximum fine of \$10,000 and three years of suspension followed by at least two years of probation. After the first offense, up to a maximum fine of \$10,000 and/or revocation;

(n) Section 456.072(1)(e), F.S.: Failure to comply with HIV/AIDS course requirements – from a minimum fine of \$1,000 and a letter of concern up to a maximum fine of \$3,000 and/or one year of suspension followed by two years of

probation. For a second offense, from a minimum fine of \$2,500 and six months of probation up to a maximum fine of \$7,500 and/or revocation. After the second offense, up to a fine of \$10,000 and/or revocation;

(o) Section 456.072(1)(g), F.S.: Civil liability found for filing a false report against another licensee – from a minimum fine of \$1,000 and a reprimand up to a maximum fine of \$3,000 and/or three years of probation. After the first offense, from a minimum fine of \$2,500 and one year of probation up to a maximum fine of \$10,000 and/or revocation;

(p) Section 456.072(1)(i), F.S.: Failure to report health care violator – from a minimum letter of concern and a fine of \$500, up to a maximum fine of \$2,500 and/or one year of probation. After the first offense, a minimum of six months of probation and a fine of \$2,000 to a maximum fine of \$10,000 and/or revocation.

(q) Section 456.072(1)(j), F.S.: Aiding unlicensed practice – from a \$2,000 fine and/or one year of suspension to a maximum fine of \$5,000 and/or revocation of license. After the first offense, from a fine of \$7,500 up to a maximum fine of \$10,000 and/or revocation;

(r) Section 456.072(1)(k), F.S.: Failure to perform statutory or legal obligation – from a minimum fine of \$1,000 and a letter of concern, up to a maximum fine of \$7,500 and/or one year of suspension followed by two years of probation. For a second offense, from a minimum fine of \$2,500 and six months of probation up to a maximum fine of \$10,000 and/or revocation. After the second offense, up to a fine of \$10,000 and/or revocation;

(s) Section 456.072(1)(m), F.S.: Misrepresentations/trick or scheme – from six months of probation, up to a maximum of suspension of license for one year, followed by two years of probation and a \$10,000 fine per count or offense. After the first offense, from a minimum of two years of probation up to a maximum of revocation and a \$10,000 fine per count or offense;

(t) Section 456.072(1)(n), F.S.: Exploit patient for financial gain – from a minimum of restitution to the patient or patient's family, a \$1,000 fine, and six months of probation, up to a maximum fine of \$10,000 and/or revocation of license. After the first offense, restitution, and from a minimum of two years of probation and a fine of \$2,500 up to a maximum fine of \$10,000 and/or revocation;

(u) Section 456.072(1)(p), F.S.: Improper delegation – from a minimum fine of \$1,000 and/or six months of probation, up to a maximum fine of \$5,000 and suspension of license for three years, followed by up to three years of probation. After the first offense, from a minimum fine of \$5,000 and/or suspension of license for one year followed by two years probation up to a maximum fine of \$10,000 and/or revocation;

(v) Section 456.072(1)(r), F.S.: Improper interference with investigation, inspection, or discipline – from a minimum fine of \$1,000 and/or one year of probation up to a maximum fine of \$10,000 and/or revocation. After the first offense, a minimum fine of \$2,500 and three months suspension followed by two years probation up to a maximum fine of \$10,000 and/or revocation;

(w) Section 456.072(1)(u), F.S.: Sexual misconduct – from a minimum reprimand and/or a PRN referral for evaluation, up to a maximum fine of \$10,000 and/or revocation. After the first offense, a minimum of probation for three years and a referral to PRN for evaluation, up to a maximum fine of \$10,000 and/or revocation.

(x) Section 456.072(1)(w), F.S.: Failure to comply with 30-day notification of convictions and nolo pleas – from a minimum fine of \$1,000 and/or a letter of concern, up to a maximum fine of \$3,000 and/or one month suspension of license followed by two years of probation. After the first offense, from a minimum fine of \$3,000 and two years of probation up to a maximum fine of \$10,000 and/or revocation;

(y) Section 456.072(1)(z): Positive results on drug screening – from a minimum fine of \$500 and/or two years of probation and referral for a PRN evaluation, up to a maximum of suspension of license for one year, followed by up to five years of probation, and a fine of up to \$10,000. After the first offense, from a \$1,500 fine, and/or referral for a PRN evaluation and two years of probation up to a maximum fine of \$10,000 and/or revocation;

(z) Section 456.072(1)(aa), F.S.: Wrong patient, site, or unnecessary treatment – from a minimum fine of \$1,000 and/or a reprimand, up to a maximum fine of \$10,000 and/or three months suspension of license followed by three years probation. After the first offense, from a minimum fine of \$3,000 and/or a year of probation up to a maximum fine of \$10,000 and/or revocation;

(2) In determining what action is appropriate, the Board firstly shall consider what sanctions are necessary to protect the public or to compensate the patient. Secondly, the Board shall consider mitigating or aggravating circumstances in applying a penalty that is outside of the range provided for in the disciplinary guidelines. For initial and repeat offenses the Board may consider:

(a) The severity of the offense;

(b) The danger to the public;

(c) The number of distinct charges;

(d) The actual damage, physical or otherwise, to the patient(s);

(e) The length of time since the date of the last violation(s);

(f) The length of time that the licensee has held a license in any jurisdiction;

(g) The deterrent effect of the penalty imposed;

(h) Rehabilitation efforts of the licensee including remorse, restitution, and corrective action(s):

(i) The effect of the penalty on the licensee's livelihood:

(j) Efforts of the licensee to report or stop violations or the failure of the licensee to correct or stop violations:

(k) The willfulness and/or negligence of the licensee pertaining to any violation:

(l) Any other mitigating or aggravating circumstances.

Specific Authority 456.072, 456.079, 486.025 FS. Law Implemented 456.072, 456.073, 456.079, 486.125 FS. History--New 2-10-87, Formerly 21M-9.023, Amended 8-2-90, 10-14-91, 12-6-92, 3-24-93, Formerly 21MM-7.002, 61F11-7.002, 59Y-7.002, Amended 1-8-98, 8-3-00.

NAME OF PERSON ORIGINATING PROPOSED RULE: Board of Physical Therapy Practice
NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Board of Physical Therapy Practice
DATE PROPOSED RULE APPROVED BY AGENCY HEAD: August 2, 2002
DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: March 1, 2002

DEPARTMENT OF HEALTH

School Psychology

RULE TITLES:	RULE NOS.:
License Required	64B21-500.001
Application Requirements	64B21-500.003
Licensure by Endorsement	64B21-500.013

PURPOSE AND EFFECT: The Department of Health proposes to repeal these rules.

SUMMARY: The Department of Health has deemed these rules unnecessary.

SPECIFIC AUTHORITY: 120.53, 455.203, 455.213, 490.015 FS.

LAW IMPLEMENTED: 490.004, 490.006, 490.012 FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Kaye Howerton, Executive Director, Department of Health, 4052 Bald Cypress Way, BIN #C05, Tallahassee, Florida 32399-3255

THE FULL TEXT OF THE PROPOSED RULES IS:

64B21-500.001 License Required.

Specific Authority 120.53(1) FS. Law Implemented 490.012 FS. History--New 4-13-82, Formerly 21U-500.01, 21U-500.001, 61E9-500.001, Repealed.

64B21-500.003 Application Requirements.

Specific Authority 120.53(1), 455.203(5), 455.213 FS. Law Implemented 490.005(2), 490.004(5) FS. History--New 4-13-82, Amended 2-12-85, 5-20-85, Formerly 21U-500.03, Amended 1-2-92, 6-21-92, Formerly 21U-500.003, 61E9-500.003, Repealed.

64B21-500.013 Licensure by Endorsement.

Specific Authority 490.015(2) FS. Law Implemented 490.006 FS. History--New 1-2-92, Amended 6-12-92, Formerly 21U-500.013, 61E9-500.013, Repealed.

NAME OF PERSON ORIGINATING PROPOSED RULE: Kaye Howerton

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Amy Jones

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: July 30, 2002

**Section III
Notices of Changes, Corrections and
Withdrawals**

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

DOCKET NO.: 01-43R

RULE CHAPTER NO.:	RULE CHAPTER TITLE:
18-23	State Buffer Preserves
RULE NOS.:	RULE TITLES:
18-23.002	Scope and Intent
18-23.007	Limitations on Activities
18-23.010	Determination and Applicability of Fines

NOTICE OF WITHDRAWAL

Notice is hereby given that the above rule, as noticed, pursuant to Sec. 120.551, F.S., in the Department's official notice Internet site at www.dep.state.fl.us under the link titled "Official Notices," and for which a summary of the notice was published in Vol. 28, No. 22, (May 31, 2002), Florida Administrative Weekly has been withdrawn.

The full text of this notice is published on the Internet at the Department of Environmental Protection's home page at <http://www.dep.state.fl.us/> under the link or button titled "Official Notices."

DEPARTMENT OF CORRECTIONS

RULE NOS.:	RULE TITLES:
33-210.101	Routine Mail
33-210.102	Legal Documents and Legal Mail
33-210.103	Privileged Mail

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., F.S., published in Vol. 28, No. 21, May 24, 2002, issue of the Florida Administrative Weekly:

33-210.101 Routine Mail.

(1) No change.

(2) Inmates will be permitted to receive only the following types of materials through routine mail: