

Section I

Notices of Development of Proposed Rules and Negotiated Rulemaking

DEPARTMENT OF EDUCATION

State Board of Education

RULE TITLE: Employment of School Bus Drivers
 RULE NO.: 6A-3.0141

PURPOSE AND EFFECT: The purpose of this rule development is to revise the current Department of Education Form ESE 479, Physical Examination for School Bus Driver and Medical Examiners Certificate, to allow physicians more room to provide notes or explanations of possible conditions of school bus drivers during required annual physical examinations, and to conform with revised federal requirements under Title 49 CFR, Part 391, adopted by reference in Section 1012.45, Florida Statutes. The proposed revision also updates the Form ESE 479 expiration date. The effect is to clarify acceptable criteria and procedures for annual physical examination and condition of school bus drivers.

SUBJECT AREA TO BE ADDRESSED: Physical Examination For School Bus Driver And Medical Examiners Certificate.

SPECIFIC AUTHORITY: 1001.02, 1012.45, 1006.22, 316.615 FS.

LAW IMPLEMENTED: 112.044(3), 1012.32(2)(a), 1006.22, 322.03(1)-(3) FS.

IF REQUESTED IN WRITING AND NOT DEEMED UNNECESSARY BY THE AGENCY HEAD, A RULE DEVELOPMENT WORKSHOP WILL BE NOTICED IN THE NEXT AVAILABLE FLORIDA ADMINISTRATIVE WEEKLY.

Requests for the rule development workshop should be addressed to: Wayne V. Pierson, Agency Clerk, Department of Education, 325 West Gaines Street, Room 1214, Tallahassee, Florida 32399-0400.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT IS: Ronnie H. McCallister, Director, Operations Audits & Safety, School Transportation Management Section, Department of Education, 325 West Gaines Street, Room 1114, Tallahassee, FL 32399-0400, (850)488-4405

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

6A-3.0141 Employment of School Bus Drivers.

(1) School bus drivers are defined as any persons employed or contracted to the school district to transport prekindergarten through grade 12 students in school buses as defined in Section ~~1006.25, 234.051~~, Florida Statutes.

(2) No change.

(3) Form ESE 479, Physical Examination for School Bus Driver and Medical Examiners Certificate is hereby incorporated by reference and made a part of this rule to become effective ~~June 2003~~ ~~November 1994~~. This form may be obtained from the Administrator of School Transportation Management Section or Information Services and Accountability, Division of Planning, Budgeting, and Management, Department of Education, 325 West Gaines Street, ~~The Florida Education Center~~, Tallahassee, Florida 32399.

Specific Authority ~~1001.02(1), 1006.22, 1012.45 229.053(1), 234.02, 234.091, 234.101, 316.615(3) FS. Law Implemented 112.044(3), 1012.32(2)(a), 1006.22, 1012.45 231.02(2)(a), 234.02, 234.091, 234.101, 322.03(1), 322.03(3) FS. History--New 8-1-86, Amended 7-5-89, 11-15-94, 4-19-96,~~

DEPARTMENT OF EDUCATION

State Board of Education

RULE TITLE: School Bus Driver Physical Examination and Medical Examiners Certificate
 RULE NO.: 6A-3.0151

PURPOSE AND EFFECT: The purpose this rule development is to update technical references to Form ESE 479, Physical Examination for School Bus Driver and Medical Examiners Certificate, to conform with proposed changes to Rule 6A-3.0141, FAC. The effect is consistency among rules of the State Board of Education.

SUBJECT AREA TO BE ADDRESSED: Physical Examination for School Bus Driver and Medical Examiners Certificate.

SPECIFIC AUTHORITY: 1001.02, 1012.45, 1006.22, 316.615 FS.

LAW IMPLEMENTED: 112.044(3), 1012.32(2)(a), 1006.22, 322.03(1)-(3) FS.

IF REQUESTED IN WRITING AND NOT DEEMED UNNECESSARY BY THE AGENCY HEAD, A RULE DEVELOPMENT WORKSHOP WILL BE NOTICED IN THE NEXT AVAILABLE FLORIDA ADMINISTRATIVE WEEKLY.

Requests for the rule development workshop should be addressed to: Wayne V. Pierson, Agency Clerk, Department of Education, 325 West Gaines Street, Room 1214, Tallahassee, Florida 32399-0400.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT IS: Ronnie H. McCallister, Director, Operations Audits & Safety, School Transportation Management Section, Department of Education, Room 1114, Turlington Building, Tallahassee, Florida, (850)488-4405

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

6A-3.0151 School Bus Driver Physical Examination and Medical Examiners Certificate.

(1) The physical standards established by the Federal Motor Carrier Safety Highway Administration pursuant to 49 CFR Sections 391.41 and 391.43 shall be applicable to all school bus drivers within the state. Any individual who has been performing as a school bus driver who is disqualified as a result of the enactment of this rule shall be afforded a priority in reemployment with the school district in another capacity as positions become available for such employment.

(2) No change.

(3) Waiver of certain physical conditions. A person who is not physically qualified under 49 CFR Section 391.41(b)(1) or (2) and other standards which may be included in Federal Code and who is otherwise qualified to drive a motor vehicle, may drive a school bus if granted a waiver using 49 CFR Section 391.41 as a guideline for evaluation by the Chief Financial Officer Deputy Commissioner for Planning, Budgeting and Management or designee. Applications for waiver shall be made following the procedures and requirements contained in 49 CFR Section 391.49 except that applications shall be made to and administered by the Chief Financial Officer Deputy Commissioner for Planning, Budgeting and Management or designee.

(4) No change.

(5) The physical examination shall be performed according to the School Bus Driver Physical Standards: Medical Regulatory Criteria for Physical Examinations which is hereby incorporated by reference and made a part of this rule to become effective November 1994. This document may be obtained from the Bureau of Career Development, Department of Education, 325 West Gaines Street, The Florida Education Center, Tallahassee, Florida 32399. This document is a compilation of physical evaluation criteria and guidelines which have been published in the Federal Register and which contain specific instructions for medical examiners performing examinations. The procedures for obtaining a waiver referenced in the document shall be consistent with those found in subsection (2) of this rule.

Specific Authority 1001.02(1), 1012.45 229.053(1), 234.091, 234.101 FS. Law Implemented 1012.45 234.091, 234.101 FS. History--New 11-15-94, Amended

DEPARTMENT OF EDUCATION

State Board of Education

RULE TITLE:

RULE NO.:

Student Activities

6A-14.057

PURPOSE AND EFFECT: The purpose of amending this rule is to provide students with defined procedures for participating in the development of the student activity and service fee budget and to stipulate that all expenditures funded from this

fee must be included in the approved budget. The effect is the development of procedures by trustees for student participation in the budget development process for expenditures funded from the student activity and service fee. The procedures will enable students to have a comprehensive knowledge of revenues available for the budget. These changes will provide a more meaningful participation in the budget development of these fee revenues.

SUBJECT AREA TO BE ADDRESSED: Student Fees – Student Activity and Services Fee.

SPECIFIC AUTHORITY: 1001.02(9) FS.

LAW IMPLEMENTED: 1001.64, 1009.23(7), 1010.02 FS.

IF REQUESTED IN WRITING AND NOT DEEMED UNNECESSARY BY THE AGENCY HEAD, A RULE DEVELOPMENT WORKSHOP WILL BE NOTICED IN THE NEXT AVAILABLE FLORIDA ADMINISTRATIVE WEEKLY.

Requests for the rule development workshop should be addressed to: Wayne Pierson, Agency Clerk, Department of Education, 325 West Gaines Street, Room 1214, Tallahassee, Florida 32399-0400

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT IS: J. David Armstrong Jr., Chancellor, Division of Community Colleges, 325 West Gaines Street, Tallahassee, Florida 32399-0400

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

6A-14.057 Student Activities.

(1) Expenditures from student activity and service fees shall be according to a budget prepared jointly by students and college staff and approved by the president. Each board of trustees shall adopt procedures for student participation in the development of the budget for expenditures funded from the student activity and service fee. Such procedures shall require the budget to be based upon an estimate of total funds generated from this fee as well as an estimate of funds carried forward from the prior year. All lawful expenditures which benefit the student body in general may be funded from the student activity and service fee fund if such expenditures are included in the approved budget for this fee. Sponsors shall be appointed for student activities so financed.

(2) Student organizations not so financed may be permitted on campus with faculty or staff advisors and under rules of the board of trustees. A college as a service to the organizations, or if necessary for the protection of student members, may provide that organization funds be placed with the college business office to be held in a custodial account and to be withdrawn and expended upon requisition according to the organization's approved budget.

Specific Authority 1001.02(9), 229.053(1), 240.325 FS. Law Implemented 1001.64, 1009.23(7), 1010.02, 240.319, 240.325(5), 240.35(5), 240.363 FS. History—Formerly 6A-8.19, Repromulgated 12-19-74, Amended 12-26-77, 4-17-85, Formerly 6A-14.57, Amended 12-18-94, _____.

DEPARTMENT OF COMMUNITY AFFAIRS

Florida Building Commission

RULE CHAPTER TITLE: Florida Building Energy Rating System

RULE CHAPTER NO.: 9B-60

RULE TITLES: Department Activities

RULE NOS.: 9B-60.003

Florida Building Energy Rating System, Adopted

9B-60.004

Training and Certification Program

9B-60.005

Guidelines for Uniformity, Adopted

9B-60.008

PURPOSE AND EFFECT: Section 553.992, Part XI, F.S., requires the Department of Community Affairs (the Department) to update the Building Energy-Efficiency Rating System in accordance with the procedures of Chapter 120, F.S. Further, Sec. 553.995(1)(c), F.S., requires that the energy rating system be compatible with standard federal rating systems and state building codes, where applicable. The purposes of this rule change are to 1) adopt by reference the Mortgage Industry National Home Energy Rating Systems Accreditation Standards, promulgated by the National Association of State Energy Officials (NASEO)/Residential Energy Services Network (RESNET), June 15, 2002, 2) amend the rating system calculation procedures so that they are consistent with the new revisions to Chapter 13 of the Florida Building Code, Building, and the National Home Energy Rating Technical Guidelines, 3) to require written disclosure of financial or other conflict of interest in accordance with Section 4.C.6 of the National Accreditation Procedures for Home Energy Rating Systems, 4) to expand recertification requirements for residential raters to require satisfactory demonstration of the skills necessary to perform a Class 1 rating and attend a refresher course if a rater fails to pass the recertification test in his/her rating classification, 5) to require a written report be provided to the client for every rating performed, 6) to remove the Department from software development and maintenance, and 7) to add the Florida Solar Energy Center and its address to the written report.

SUBJECT AREA TO BE ADDRESSED: The National Association of State Energy Officials has published technical guidelines and accreditation procedures for home energy ratings, and the Department has amended the multipliers contained in EnergyGauge/ResFREE to reflect those in Form 600A-01 (all climate zones) as found in Chapter 13 of the Florida Building Code, Building. Also, in this rule change, the Department is proposing to revise the provisions for criteria contained in the report to the consumer, require disclosure of financial or other conflict of interest, and expand the criteria for recertification as a BERS rater.

SPECIFIC AUTHORITY: 553.992, 553.995(1)(c), 553.998 FS.

LAW IMPLEMENTED: 553.992, 553.994, 553.995(1)(c),(4), 553.996 FS.

A RULE DEVELOPMENT WORKSHOP WILL BE HELD AT THE TIME, DATE AND PLACE SHOWN BELOW:

TIME AND DATE: 10:00 a.m. – 12:00 Noon, March 26, 2003

PLACE: The Randall Kelley Training Center, Third Floor, Room 305, Sadowski Building, 2555 Shumard Oak Boulevard, Tallahassee, Florida 32399-2100

Any person requiring special accommodations at the workshop because of a disability or physical impairment should contact Ila Jones, Community Program Administrator, Department of Community Affairs, 2555 Shumard Oak Boulevard, Sadowski Building, Tallahassee, Florida 32399-2100, (850)487-1824, at least seven days before the date of the workshop. If you are hearing or speech impaired, please contact the Department of Community Affairs using the Florida Dual Party Relay System, which can be reached at 1(800)955-8770 (Voice) or 1(800)955-8771 (TDD).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT IS: Ann Stanton, Building Codes Analyst, Department of Community Affairs, 2555 Shumard Oak Boulevard, Tallahassee, Florida 32399-2100, (850)488-0964, SunCom 278-0964

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

- 9B-60.003 Department Activities.
 - (1) No change.
 - (2) Within three (3) years of the date of adoption of the rating system, and at least triennially thereafter in conjunction with the triennial review of Chapter 13 of the Florida Building Energy Efficiency Code, Building For Construction (the Code), the Department shall review the energy rating system program criteria and the calculation tools used in common by both the BERS and the Code that are adopted herein to determine the need for revision or modification. The residential rating system methodology is based on Method A of Sub-Chapter 6 of Chapter 13 of the Code, while the commercial rating system methodology is based on Method A of Sub-Chapter 4 of the Code. At a minimum, the Department shall update the rating system by adopting modifications to the current editions of the Code and the National Home Energy Rating Technical System (HERS) Guidelines promulgated by the National Association of State Energy Officials. Copies of the Code and the Technical HERS Guidelines are available from the Florida Department of Community Affairs, Building Codes and Standards Office, 2555 Shumard Oak Boulevard, Tallahassee, Florida 32399-2100, (850)487-1824.
 - (3) through (4) No change.

Specific Authority 553.992, 553.998 FS. Law Implemented 553.992, 553.996 FS. History—New 7-1-94, Amended 12-27-98, _____.

9B-60.004 Florida Building Energy Rating System, Adopted.

(1) No change.

(2) The energy rating for new residential buildings (Class 3) shall be determined using only the Florida Residential Building Energy Rating System software (EnergyGauge/ResFREE, Version 3 2) ~~developed and maintained by the Department~~, which produces the Florida Building Energy Rating Guide forms: Form #11A-0197 for the North climate zone, Form #11B-0197 for the Central climate zone, and Form #11C-0197 for the South climate. The rating system software (EnergyGauge/ResFREE, Version 3 2) that produces these forms is hereby incorporated by reference. A Class 3 rating shall be clearly labeled as a “projected rating based on plans”.

(3) through (4) No change.

(5) The energy rating for new public and new commercial buildings shall be determined using only the Florida Commercial Building Energy Rating System software (EnergyGauge/ComFREE 97, Version 1 2.2) ~~developed and maintained by the Department~~ which produces the Florida Building Energy Rating Guide forms: Form #12A-01 97 for the North climate zone, Form #12B-01 97 for the Central climate zone and Form #12C-01 97 for the South climate zone. The Florida Commercial Building Energy Rating System software (EnergyGauge/ComFREE 97, Version 1 2.2) is hereby incorporated by reference. Public buildings owned or leased by state agencies and units of local government that are governed by Section 255.254, F.S., may utilize this rating system as one of the annual energy usage and cost methods approved by those agencies.

(6) The energy rating for existing commercial buildings shall be determined using only the Florida Commercial Building Energy Rating software (EnergyGauge/ComFree 97, Version 1 2.2) ~~developed and maintained by the Department~~ which produces the Florida Commercial Building Energy Rating Guide forms listed in subsection 9B-60.004(5), F.A.C. The Florida Commercial Building Energy Rating System software (EnergyGauge/ComFREE 97, Version 1 2.2) is hereby incorporated by reference.

(7) No change.

Specific Authority 553.992 FS. Law Implemented 553.994, 553.995(1) FS. History—New 7-1-94, Amended 10-3-94, 1-11-95, 12-27-98, _____.

9B-60.005 Training and Certification Program.

(1) General Provisions.

(a) Beginning with the implementation date of this rule, no person may provide a rating for buildings in Florida unless such a person has been certified as provided by this part. To perform a rating for any building as required by this Rule, the person performing the rating must be certified by the Department of Community Affairs. In accordance with Section 4.C.6 of the “National Accreditation Procedures for Home Energy Rating Systems,” a Florida Certified Rater who has a

financial or other conflict of interest resulting from the energy Rating results (including any recommended improvements resulting from the Rating) shall provide written disclosure of the nature of the financial or other conflict of interest to the owner of the property being rated.

(b) No change.

(c) An application for annual certification renewal shall be submitted on Form 500B-01 98, herein incorporated by reference, with a renewal fee of \$50. In addition to the annual renewal fee, a certified residential rater must, over a three year period, have completed twelve credit hours of continuing education in courses accepted by the Department for certification renewal. Acceptable courses shall, in general, be those dealing with energy use in buildings or building systems (including heating, ventilating and air conditioning), building design or construction, codes or plan review, financing or selling buildings, and courses on energy rating systems.

(2) The following qualifications, at a minimum, are required for certification as a rater:

(a) The individual shall submit an application on the Department of Community Affairs Form #500A-01 98, herein incorporated by reference, and pay the appropriate application fee of \$150.00. The form is available by writing to the Department of Community Affairs, Energy Rating System Program, 2555 Shumard Oak Blvd., Tallahassee, Florida 32399-2100.

(b) through (d) No change.

(e) Recertification is required within six months of the effective date of major revisions to Chapter 13 of the Florida Building Energy Efficiency Code, For Building Construction or at least every three years from the rater’s last date of certification. For recertification, the applicant shall attend training on changes impacting the rating system provided by the Department of Community Affairs and demonstrate achievement of a level of knowledge and proficiency so as to successfully rate buildings by passing a Department test applicable to the buildings being rated. The fee for recertification shall be the annual certification renewal fee. Notwithstanding the written test, Class 1 residential raters shall be required to satisfactorily demonstrate skills necessary to perform a Class 1 rating as part of the recertification at the time of training and testing. Class 1 residential raters shall be required to satisfactorily perform and complete one Class 1 rating, accompanied and evaluated by another randomly chosen Class 1 rater, as a requirement for recertification and to comply with the National Home Energy Rating Technical HERS Guidelines requirement for periodic peer review and reevaluation of raters. Class 1 raters shall also be required to serve as a Class 1 peer evaluator at least once within three years before being recertified. These regulations in no way exempt any person from other state and local occupational licensure requirements. Any rater who fails to pass the recertification test to perform a rating in his or her rating

PURPOSE AND EFFECT: Eliminating requirement to test for color-break of fruit before it is sent to coloring rooms and allowing inspection for color-break to take place anytime after grade and prior to packing.

SUBJECT AREA TO BE ADDRESSED: Requirements for color-break test.

SPECIFIC AUTHORITY: 601.10(1),(7), 601.24, 601.44 FS.

LAW IMPLEMENTED: 601.24, 601.44 FS.

IF REQUESTED AND NOT DEEMED UNNECESSARY BY THE AGENCY HEAD, A RULE DEVELOPMENT WORKSHOP WILL BE NOTICED IN THE NEXT AVAILABLE FLORIDA ADMINISTRATIVE WEEKLY.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT, IF AVAILABLE, IS: Alice P. Wiggins, License & Regulation Specialist, Legal Department, Florida Department of Citrus, P. O. Box 148, Lakeland, Florida 33802-0148

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS AVAILABLE AT NO CHARGE FROM THE CONTACT PERSON LISTED ABOVE.

DEPARTMENT OF CORRECTIONS

RULE TITLES: Inmate Property Control of Contraband
RULE NOS.: 33-602.201 33-602.203

PURPOSE AND EFFECT: The purpose and effect of the proposed rules is to provide for the handling of excess inmate legal materials, to revise the list of permissible property items, and to clarify requirements for the possession of property items and the classification and handling of contraband items.

SUBJECT AREA TO BE ADDRESSED: Inmate property, contraband.

SPECIFIC AUTHORITY: 944.09, 945.215 FS.

LAW IMPLEMENTED: 944.09, 944.47, 945.215 FS.

IF REQUESTED IN WRITING AND NOT DEEMED UNNECESSARY BY THE AGENCY HEAD, A RULE DEVELOPMENT WORKSHOP WILL BE NOTICED 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: Perri King Dale, 2601 Blair Stone Road, Tallahassee, Florida 32399-2500

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

33-602.201 Inmate Property.

(1) The reception center Chief of Security shall ensure that property files are established for all new inmates. The inmate property file shall become part of the inmate's institutional file. All forms and correspondence pertaining to inmate property

shall be placed in this file in chronological order. The Chief of Security or his designee shall be responsible for the maintenance of the inmate property file. An addendum will be made to the Inmate Personal Property List, Form DC6-224, any time the status of inmate personal property changes. Examples of changes include when an inmate receives additional property through an approved source or when the inmate chooses to dispose of a broken or worn out item. Form DC6-224 is incorporated by reference in subsection (17) of this rule.

(2) No change.

(3) Upon receipt at any facility of the department, a written receipt for personal property that is in excess of that allowed shall be given to the inmate. When it becomes necessary to confiscate and impound the authorized personal property of an inmate subsequent to his reception in the institution, it will be immediately inventoried by an officer in the presence of the inmate, and a written, signed receipt, Form DC6-220, Inmate Impounded Personal Property List, itemizing the property will be given to the inmate. Form DC6-220 is incorporated by reference in subsection (17) of this rule. If the inmate's behavior is such that the security and order of the institution is jeopardized by his presence during the inventory process, the inmate's presence shall not be required. In such cases a second officer shall witness the inventory process. Proper procedures will be taken to safeguard and store such property so as to prevent its loss, damage or theft. Upon release of the property, a signed receipt will be obtained from the inmate. Money in excess of the amount allowed by institutional policies found in the possession of an inmate will be handled in accordance with paragraph 33-602.203(5)(a), F.A.C.

(4) Authorized Property.

(a) The property reflected on the Approved Property List (Appendix One), in the indicated quantities, is authorized within the department once an inmate is permanently assigned, provided the inmate has sufficient storage space. An inmate may not use other inmates' storage space, or other non-authorized storage containers, or store property in locations other than their assigned housing unit.

(b) through (c) No change.

(d) Inmates shall be required to maintain receipts for items purchased from the canteen for as long as they possess the items. In instances where items purchased from the canteen are added to the Inmate Personal Property List, Form DC6-224, by the property officer, the inmate will not be required to maintain the original canteen receipt.

(5) Unauthorized property. Also see Control of Contraband, Rule 33-602.203, F.A.C.

(a) Property which is Unauthorized property shall be considered contraband pursuant to Rule 33-602.203, F.A.C., shall be considered contraband and handled as provided for in Rule 33-602.203, F.A.C. If an inmate receives postage stamps in

the mail which, added to the number already in his possession, place him over the maximum allowed, he shall be allowed to send the excess stamps out at his own expense. It is the inmate's responsibility to make arrangements with staff to send out the extra stamps as soon as they are received. The stamps must be sent out; the institution will not store excess stamps for inmates. Excess stamps found in an inmate's property will be considered contraband. An inmate who is in possession of the maximum number of articles allowed by this rule and who wishes to replace a worn item must contact the property officer to arrange to discard or send the worn item out at his own expense before purchasing a replacement item. This includes any item or article on the grounds of the department or in the possession of the inmate that was neither:

1. Issued;
2. Received through approved methods from an authorized vendor;
3. Purchased in the canteen; or
4. Has been altered from its original design.

(b) Not later than January 1, 1998, all property not on the approved property list must be disposed of either through donation to a charitable organization, mailed to a designated individual at state expense, or discarded.

(b)(e) Property that is authorized for inmates in general population such as shaving powders, oils and lotions shall be unauthorized or restricted based upon an inmate's confinement or other high security status when that item presents a security risk. Further limits on personal items for inmates in confinement or other high security statuses are authorized as referenced in Rules 33-602.220, 33-602.221, 33-602.222 and 33-601.800 33-601.811, F.A.C.

(6) Storage of Excess Legal Materials.

(a) Definitions.

1. Active Legal Material: Pleadings (i.e., complaint, petition or answer), legal motions and memoranda, affidavits, court orders and judgments, correspondence, and other documents (including discovery and exhibits), in or directly pertaining to an inmate's own pending, active or prospective cases or lawsuits before the courts or administrative agencies.

2. Inactive Legal Material: Legal material not related to the inmate's ongoing litigation, or not directly pertaining to an inmate's pending, active or prospective cases or lawsuits before the courts or administrative agencies.

3. Excess Active Legal Material: Active legal material that exceeds the capacity of storage available in the inmate's locker.

4. Excess Inactive Legal Material: Inactive legal material that exceeds the capacity of storage available in the inmate's locker.

(b) Storage of Legal Material. Each inmate is authorized to possess in his or her assigned housing area his own active or inactive legal material not exceeding the capacity of storage available in the inmate's assigned locker.

(c) Storage of Excess Active Legal Material.

1. A secure space for storing excess active legal material will be provided for inmates to use to store active legal material that cannot be contained in the inmate's locker. Each facility will identify a secure area for such storage.

2. When it is determined by staff that an inmate has legal material that cannot be contained in the inmate's assigned locker, the inmate shall be given a written order from an employee of the department providing:

a. The inmate shall have one week (seven calendar days), to organize and inventory his or her legal material and separate excess inactive legal material from excess active legal material; and

b. If, after organizing and inventorying his or her legal material the inmate will not be able to fit his active legal material in his assigned inmate locker, the inmate shall complete a Request for Storage of Excess Active Legal Material, Form DC6-2006, and an Excess Active Legal Material Inventory List, Form DC6-2008, to be submitted to the warden for review. Forms DC6-2006 and DC6-2008 are incorporated by reference in subsection (17) of this rule.

3. If time is needed in excess of seven calendar days for the inmate to organize and inventory his or her legal material, the inmate shall, prior to the expiration of the seven calendar day period, submit an inmate request to the department employee ordering the review to ask for additional time to complete his review. The inmate shall specify the basis for the request for additional time and how much additional time will be required to complete the inmate's organizing and inventorying of his or her legal material. The total period of time for the inmate to complete this review shall not exceed 30 calendar days.

4. In the event the inmate refuses to organize and inventory his or her legal material as ordered, the inmate shall receive a disciplinary report.

5. Prior to placing an inmate's active legal material into excess storage, the inmate's legal material shall be subject to a cursory review by department staff to ensure compliance with department rules regarding utilization of excess storage, approved property and contraband. This review will only be conducted in the presence of the inmate. Only the case style, signature on the document (if any) and letterhead (if any) may be read. Any material that is determined by staff to not be active legal material, shall be collected by two designated employees and placed in storage box(es) with interlocking flap for storage pending disposition. The warden or designee shall notify the inmate on Form DC6-2007, Excessive Inactive Legal Material Disposition Determination, of the determination that the inmate has 30 days to make arrangements to have the excess inactive legal material picked up by an approved visitor or sent to a relative or friend at the inmate's expense, or the institution will destroy it. This notification shall be provided to the inmate within three

calendar days of the determination unless the inmate provides verification of a deadline that cannot be met with the three day waiting period. The 30 day limit shall not include any time that a grievance appeal is pending provided the inmate has provided the warden or the warden's designee with the written notice required in subparagraph (7)(c)6. Form DC6-2007 is incorporated by reference in subsection (17) of this rule. For purposes of this subparagraph, the warden's designee may include the property room supervisor.

6. If the inmate intends to appeal the determination and wishes to have the order to dispose of the excess inactive legal material within 30 days stayed while the appeal is proceeding, the inmate must provide written notice to the warden on Form DC6-236, Inmate Request, that he or she intends to appeal the determination to the office of the secretary. The written notice must be filed within 15 calendar days of the determination and shall include a statement by the inmate that the inmate intends to appeal the determination and must specifically identify the documents or papers on which the appeal is to be based. Form DC6-236 is incorporated by reference in Rule 33-103.019, F.A.C.

7. If the inmate fails to file written notice with the warden within 15 calendar days, fails to provide Form DC6-2007 as an attachment to his or her appeal, addresses more than one issue or in any other way violates the grievance procedure as described in Chapter 33-103, F.A.C., his or her appeal shall be returned without response to the issue raised.

8. If the inmate's appeal is denied, he or she shall have 30 days to make arrangements to have the material picked up by an approved visitor, relative or friend, or pay to have the material sent to one of these approved individuals. If the material is not picked up or mailed out within 30 days, the institution shall destroy it.

9. Prior to being stored in excess storage, excess active legal material shall be placed in storage box(es) with interlocking flap, shall be numbered in sequential order and shall have the inmate's name and department of corrections number clearly written on the top and side of each box. Prior to being sealed, the box(es) shall be inspected by staff, in the presence of the inmate, for contraband. Each box shall be sealed in the presence of the inmate prior to being placed into excess storage. An Excess Active Legal Material Inventory List, Form DC6-2008, shall be completed or updated by the inmate before the box(es) are sent or returned to excess storage.

10. In no event will an inmate's active legal material be destroyed or removed from the facility except, in accordance with procedures for disposition of inmate personal property provided in this rule, as authorized and directed in writing by the inmate.

11. The department will not store case law, legal texts or books, or multiple copies of legal material as excess active legal material.

(d) Excess Inactive Legal Material. Excess inactive legal material shall be sent out of the facility by the inmate at the inmate's expense. If the inmate does not want to pay to send the excess inactive legal material out, this material will be destroyed in accordance with this rule and Rules 33-602.201 and 33-602.203, F.A.C., regarding inmate property and contraband.

(e) Inmate Access to Excess Active Legal Material.

1. When an inmate wants access to a box of his or her legal material stored in excess storage, the inmate shall:

a. Notify the property room officer by Inmate Request, Form DC6-236; and

b. Clearly indicate by number the box to be requested.

2. Barring an emergency need demonstrated by the inmate, e.g., a court deadline that requires an immediate response by the inmate, the property room officer shall provide the requested box to the inmate within three workdays from date of receipt of the request, which shall be date stamped when received.

3. After receipt of a box of his or her legal materials from excess storage, the inmate shall then be permitted to exchange those active legal materials in the requested box with other active legal materials in the inmate's assigned locker.

4. The legal material to be exchanged shall be inspected for contraband by staff and sealed in the presence of the inmate prior to the box being returned to excess storage.

5. An Excess Active Legal Material Inventory List, Form DC6-2008, shall be used and updated each time legal material is stored in or exchanged with legal material from excess storage.

(f) Transfer. An inmate being transferred to another institution shall be permitted to take along with his or her other personal property all his legal material. The transferred inmate's legal material must be maintained and possessed in accordance with the receiving institution's available locker storage space.

(7)(6) Impounded Property.

(a) When it is necessary to take and impound items of personal property belonging to or in the possession of an inmate, that property shall be taken, handled, processed, and secured in a manner which will safeguard it from loss, damage, destruction or theft while it is under the control of the Department. If the property impounded does not belong to the inmate in possession of the property, an investigation shall be conducted to determine if the owner of the property knowingly permitted the use of the property. If so, the property shall be handled as contraband. If it can be determined that the property was stolen or otherwise taken, the impounded property shall be returned to the rightful owner. Inmates must report stolen items immediately to the housing officer. The officer shall complete an incident report and an attempt will be made to locate the missing property.

(b) When personal property of an inmate is taken, it will be inventoried according to the following procedure on Form DC6-220, Inmate Impounded Personal Property List, and, whenever practical, in the presence of the inmate. Exceptions may be made when the inmate's presence during this process jeopardizes institutional security or in times of an emergency such as a general disturbance creating security concerns. New inmates being processed into the department at one of the reception centers will have their property recorded on DC6-220 with a copy being given to the inmate. Unauthorized property will be stored pending final disposition as provided in this rule. At the time of receipt into the department each inmate will also sign an Authorization for Disposition of Mail and Property, Form DC6-226, which authorizes the department to dispose of the property should the inmate abandon it. Form DC2-226 is incorporated by reference in subsection (17) of this rule.

1. through 5. No change.

(c) through (d) No change.

(e) If it is appropriate to return part, but not all, of the impounded property to the inmate, the following procedure will be followed:

1. That part of the property being returned will be listed on the approved release Form DC6-225, Inmate Partial Property Return Receipt, and any property found to be missing at that time will be noted on the form. Form DC6-225 is incorporated by reference in subsection (17) of this rule. The employee making the release and the inmate will date and sign the release form each in the presence of the other. One signed copy of the release form shall be given to the inmate. One copy shall be attached to the original inventory list and kept with the remaining impounded property until all property is returned to the inmate, and then to the inmate's property file.

2. The remaining unauthorized impounded property shall be held by the institution for 30 days. It shall be the responsibility of the inmate to make arrangements to have the property picked up by an approved visitor, relative or friend. In the alternative, the inmate may pay to have the property mailed to one of these approved individuals. The 30-day time period shall not include any time during which an appeal or grievance proceeding relating to the impounded property is pending. This paragraph does not apply to property that will be returned to the inmate pursuant to paragraph ~~(7)(6)~~(d) after release from close management, administrative or disciplinary confinement.

3. No change.

(f) No change.

(g) When an inmate whose personal property has been taken and impounded is transferred to another facility, that property shall be transported with the inmate or as soon as possible thereafter. It is the responsibility of the sending location to ensure that only authorized property is transported and that the inmate has signed the proper receipt for the property, Form DC6-227, Receipt for Personal Property. Form

DC6-227 is incorporated by reference in subsection (17) of this rule. The procedures for returning property listed in paragraph (f) shall be followed. When the inmate has excessive authorized property which cannot be transported with the inmate, the procedures for making a partial return listed in paragraph (e) shall be followed.

(h) through (i) No change.

~~(8)(7)~~ Any inmate transferring to an outside community hospital for treatment or to a court appearance shall take only items of personal clothing and hygiene items except in those cases in which the inmate is expected to be absent for a period of more than 30 days. If the inmate is to return within 30 days, remaining personal property shall be inventoried utilizing Form DC6-220, Inmate Impounded Personal Property List, and stored in a secure location. When the inmate returns, only those items that he possessed before transfer will be allowed.

(8) through (9) renumbered (9) through (10) No change.

~~(11)(10)~~ When an inmate dies, escapes, or otherwise voluntarily abandons his or her property, the procedures listed below will be followed:

(a) through (c) No change.

(d) If the effort to locate the person or persons is not successful, or if the person or persons listed fail to make arrangements to take possession, property ~~other than money~~ will be given to charity. Funds in the inmate bank trust fund will be handled in accordance with Rule 33-203.201, F.A.C. Money will be placed in the Central Office Dormant Account.

(e) No change.

~~(12)(11)~~ No change.

~~(13)(12)~~ The warden or his designee is authorized to require an inmate to bring all of his personal property to the disciplinary hearing if he determines that this is necessary after evaluating the factors set out in subsection ~~(12)(11)~~ above.

~~(14)(13)~~ Missing Inmate Property.

(a) through (c) No change.

(d) The Department of Corrections Environmental Health, Safety and Risk Management Office shall review and forward the claim to the Department of Insurance, Division of Risk Management, for review and reimbursement consideration. Form DC6-238, Report of Risk Management Claim for Inmate Property, shall be used to notify the institution of action taken on the claim by the Department of Corrections Environmental Health, Safety and Risk Management Office. Form DC6-238 is incorporated by reference in subsection (17) of this rule.

(e) No change.

~~(15)(14)~~ No change.

~~(16)(15)~~ Approved Religious Property. Inmates shall be permitted to possess the following religious items or material:

(a) No change.

(b) Items required by the tenets of a particular religion, including:

1. through 3. No change.

4. Native American – medicine bag, headband.

(c) through (g) No change.

~~(17)~~(16) Forms. The following forms referenced in this rule are hereby incorporated by reference. Copies of any of these forms are available from the Forms Control Administrator, Office of the General Counsel, 2601 Blair Stone Road, Tallahassee, Florida 32399-2500.

(a) through (f) No change.

(g) DC6-2006, Request for Storage of Excess Legal Material, effective date _____.

(h) DC6-2008, Excess Active Legal Material Inventory List, effective date _____.

(i) DC6-2007, Excess Inactive Legal Material Disposition Determination, effective date _____.

Specific Authority 944.09 FS. Law Implemented 944.09 FS. History—New 6-4-81, Formerly 33-3.025, Amended 11-3-87, 11-13-95, 5-20-96, 1-8-97, 6-1-97, 7-6-97, 10-15-97, 2-15-98, 3-16-98, 8-4-98, 12-7-98, Formerly 33-3.0025, Amended 11-21-00, 9-12-01, 5-16-02, _____.

APPENDIX ONE
PROPERTY LIST

This list incorporates all property authorized to be possessed by inmates in all Department institutions and facilities except community correctional centers. Except for items specified below as “exemptions”, property received must be in compliance with this list. Inmates in possession of previously approved property which meets the description of property on the list shall be allowed to retain the property.

Definitions.

The “quantity” establishes a maximum possession limit. This does not mean that all state issue items will be issued to each inmate, or that the maximum number of items will be issued. Items found in the possession of an inmate that are in excess of the established “quantity” shall be treated as contraband in accordance with Rule 33-602.203, F.A.C. Where there is a “value” indicated, the authorized item shall not exceed that value. The terms “canteen” and “state issue” refer to the sources from which property can be obtained after January 1, 1996. All items with the “canteen” designation shall be available in all institutional canteens or through canteen order. All canteen items are transferable between institutions. “State issue” means that the institution has the authority to issue this item to inmates based upon the character of the institution, the location of the institution, the housing or work assignment of the inmate, or other factors related to institution or inmate needs. Institutions housing death row inmates shall make adjustments to this property list when possession of listed items by death row inmates would create a threat to the security of the institution.

Exemptions.

Inmates already in possession of the following previously approved items shall be allowed to retain the items until they are no longer serviceable, but shall not be allowed to replace them with like items.

- Clothing items of a different color than specified on the property list.
- Locks other than V68 series
- Plastic bowls, tumblers, cups and lids
- Pantyhose
- Nail clippers larger than 2-1/2"

AUTHORIZED PROPERTY LIST

CLOTHING

Quantity	Unit	Value	Articles
1	each		Athletic Bra (canteen – female only)
1	each		Belt (state issue)
4	each		Bras (state issue or canteen – female only)
1	each		Coat (state issue)
3	each		Dresses (state issue – female only)
1	pair		Gloves, work (state issue)
4	each		Handkerchief, cotton, white only (canteen)
1	each		Hats (state issue)
2	pair		Pajamas-long (light blue or white only) (state issue or canteen) <u>Light blue or white – female only</u> <u>Light blue – male</u>
7	each		Panties (state issue or canteen – female only)
3	each		Pants (state issue)
1	each		Raincoat – clear (state issue or canteen)
1	each		Robe (state issue – female only)

3	each	Shirt, outer (state issue)
4	each	Shirt, T-Shirt (state issue or canteen <u>order – gray</u>) <u>*inmates may possess both state-issue and canteen-purchased shirts, but the total combined number cannot exceed 4.</u>
1	pair	Shoes, Athletic (canteen)
1	pair	Shoes, Work (state issue)
2	each	Shorts, athletic (navy blue) (canteen)
1	each	Shower cap, clear only (canteen)
1	pair	Shower slides (canteen)
3	each	Slips (state issue – female only)
6	pair	Socks (state issue or canteen)
1	each	Supporter, athletic (canteen)
2	each	Sweatshirts (gray only) (canteen order)
4	each	Undershorts (male only) (state issue or canteen)
2	each	Underwear, thermal (state issue or canteen)

PERSONAL ARTICLES

Quantity	Unit	Value	Articles
Number in use			Batteries (canteen)
25	each		Bobby pins, roller clips – plastic only (females only), (canteen)
*			Books (legal, educational, religious, fiction) – * Quantity as specified by Rule 33-501.401, F.A.C.
1	package		Breath tablets (canteen)
1	each		Calendar, as specified by Rule 33-501.401, F.A.C.
*			Canteen purchases – * limited by storage space; <u>includes:</u> – <u>Food and drink perishable items – limited to possession of 10 total items, food sold in packages count as one item; food that requires refrigeration must be those which can be reasonably consumed within two 24 hours; once a food item is opened it must be consumed or thrown away, opened items cannot be stored.</u> – <u>Condiments – limited to possession of 20 of each item; if sold prepackaged or bundled by the canteen, maximum not to exceed the quantity in the package or bundle.</u> – <u>Tobacco items – includes cigarettes, cigars, tobacco, snuff, and chewing tobacco; limited to any combination of 5 items.</u>
1	Set		Checkers (light wood or plastic, standard checkers only (canteen order)
1	set		Chess (light wood or plastic, 2 inches max. height) (canteen order)
<u>1</u>	<u>each</u>		<u>Coffee mug – plastic (canteen)</u>
1	each		Comb-pocket type, no handles (non-metal) (state issue or canteen)
*			Correspondence – * limited by storage space limitations.
1	pack		Cotton swabs (plastic or paper stems only) (canteen)
<u>2+</u>	each		<u>Crème rinse and conditioner (canteen)</u>
1	each		Cup, drinking – plastic (canteen)
1	each		Cuticle remover (non-alcohol base) (canteen)
1	package		Dental floss, (floss loops only), unwaxed (canteen)
<u>1</u>	<u>package</u>		<u>Dental floss strips, Rx only (canteen order)</u>
1	each		Denture adhesive (state issue or canteen)
<u>1</u>	<u>Each</u>		<u>Denture cup (canteen order)</u>
<u>2+</u>	each		<u>Deodorant (no aerosols) (canteen)</u>
1	set		Domino (light wood or plastic, standard size) (canteen order)
<u>1</u>	<u>Pair</u>		<u>Earphone pads (replacement) (canteen order)</u>
1	pair		Ear rings, post type (female only) (canteen order)
1	pack		Emery board – cardboard (canteen)
1	pack each		Envelopes – legal and oversized (canteen)
*			Envelopes, self-addressed stamped – * the total in the inmate’s possession shall not exceed the limit of 1 pack of envelopes or 25 1-ounce 1st class stamps as set for the individual items.

1	each		Erasers (canteen)
2	each		Eyeglasses, case, contact lens and solutions (state issue or personal; "personal" means that inmates already in possession of these items will be allowed to retain them, but any future items will be provided by the institution if needed.) Contact lenses will only be provided if medically indicated.
1	each		Eye shadow, eyeliner, mascara, eyebrow pencil, blemish preparation, lipstick, blemish and spot cover-up, lip coloring (female only) (canteen)
1	box		Facial tissue (canteen) Feminine hygiene products (internal and external) (female only) (state issue or canteen)
*			File Folders (*limited by storage space)
1	each		Hairbrush – nonmetal, handles for females only (canteen)
2	each		Hairdressing (no aerosols) (state issue or canteen)
1	each		Hair net (female only) (canteen)
25	each		Hair rollers (female only) (canteen)
<u>2</u>	<u>each</u>		<u>Handballs (canteen)</u>
1	each		Headphones for use with radio (canteen)
1	each		Health aids – headache and cold remedies, antacids, laxatives, eye wash, antifungal preparations, cough drops, nasal spray, etc. No imidazoline, tetrahydrozoline, or hydrochlorida compounds (canteen – as approved by health services)
2	each		Hearing aid (state issue or personal)
*			Hobby craft – at locations where program exists and subject to storage space limitations
1	each		Insect repellent (canteen)
1	each		Jigsaw puzzle (canteen order)
1	each		Laundry bag (canteen or state issue)
1	each		Lighter, disposable (approved type) (canteen)
1	each		Lip balm (canteen)
1	each		Locks, combination (V68, V85 or V643 series) (canteen)
1	each		Make-up bag, clear only (female only) (canteen)
1	each		Mirror – plastic, non-breakable, 5" x 7" max. (canteen)
1	each		Moisturizer – no mineral oils (canteen)
1	each		Mouthwash (canteen)
1	each		Nail clippers, not to exceed 2 1/2" (canteen)
2	pack		Notebook paper (canteen)
4	each		Pens, ballpoint, flair-type, pencils, or security pens, no markers (canteen)
*			Periodicals – * as specified by Rule 33-501.401, F.A.C., and storage space limitations
1	each		Photo album, non-metal (canteen)
50	each		Photographs (personal)
2	decks		Playing cards (standard) (canteen)
1	each		P.R.I.D.E. service pin (issued to inmate from P.R.I.D.E.)
*			Prosthesis – * as approved by health services
1	each	50.00	Radio, DC/AM/FM only, "Walkman" type, maximum 4" x 5" (canteen)
1	each		Razor, disposable (state issue)
1	each	50.00	Razor, battery operated, non-rechargeable (canteen order)
<u>1</u>	<u>Each</u>		<u>Razor, battery operated, replacement blades (canteen order)</u>
*			Religious requirements – as approved by chaplaincy services, (examples: head covering, prayer rug)
1	Each	<u>50.00</u> 25.00	Religious medallion with chain (personal or canteen order)
1	Each	100.00	Ring, engagement (personal, female only)
1	Each	100.00	Ring, wedding (personal)
1	each		Roller cap, clear only (female only) (canteen)
1	set		Scrabble (canteen order)
2	each		Shampoo (canteen)
1	each		Shaving cream (canteen)

1	each		Shaving powder (canteen)
1	pair		Shoe laces (canteen)
1	each		Shoe wax (Liquid only, non flammable, no nitrobenzene; canteen)
2	each		Soap, bath (state issue or canteen)
1	each		Soap dish (canteen)
1	each		Soap, laundry (canteen)
*			Special needs – * special devices as approved for compliance with medical needs
1	each		Spoon, plastic
40 25	each		Stamps (1-ounce 1st class) (canteen)
1	each		Sunglasses, no mirror type (canteen)
1	each		Sunscreen lotion (canteen)
1	each		Talcum powder (canteen)
1	each		Toothbrush (state issue or canteen)
1	each		Toothbrush holder (canteen)
2	each		Toothpaste (state issue or canteen)
2	each		Towels (state issue)
1	each		Wallet (canteen)
1	each	50.00	Watch (personal or canteen)
1	each		Watch band (canteen)
<u>1</u>	<u>Each</u>		<u>Watch batteries, replacement (canteen order) *only for old style sold in institutional canteens</u>
2	each		Washcloths (state issue or canteen)

33-602.203 Control of Contraband.

(1) General Definition of Contraband.

(a) ~~Contraband is Any~~ any item or article inside an institution or facility, on the property of a facility or in the possession of an inmate that was neither:

1. No change.
2. Approved for purchase ~~in at the canteen commissary,~~
3. through 5. No change.

(b) No change.

(c) Any item or article which is altered from its original design or is being used for a purpose other than that for which it was designed or authorized.

(d) Any item or article which is in excess of property limits provided in Rule 33-602.201, F.A.C.

(2) through (4) No change.

(5)(a) No money shall be given directly to or received by an inmate assigned to a ~~work release community correctional~~ center unless authorized by the chief of security or his designated representative. On a case by case basis, each chief of security may authorize a draw of funds from the inmate's account that ~~has not been drawn from the inmate's bank fund or that~~ exceeds the approved amount authorized under subsection 33-203.201(3), F.A.C., if a specific request is made and a review determines it is warranted. Any money found in the possession of an inmate in excess of \$75 ~~50~~ in ~~work release community correctional~~ centers shall be considered contraband and shall be confiscated and deposited in the inmate welfare trust fund.

(b) No change.

(6) No inmate shall manufacture or have in his possession any alcohol or alcoholic beverage, or have in his possession any drug such as a narcotic or barbiturate or hallucinogenic drug or central nervous system stimulant or substance prohibited by law, except when authorized to do so by a physician or other authorized medical personnel. When medication is found in an inmate's possession that is beyond the labeled expiration date, or for which the inmate does not have a valid prescription, or is in quantities indicative of hoarding, the medication will be handled as contraband and turned over to the medical department for disposition.

(7) Disposition of Contraband.

(a) Those contraband items retained for use in disciplinary hearings as evidence will be stored until such time as the warden or his designee approves of their being destroyed or disposed of. A secure area within the institution will be designated as the storage area for all contraband items. A Contraband Log, Form DC6-219, will be utilized to document the storage of contraband items. Form DC6-219 is hereby incorporated by reference. Copies of this form may be obtained from the Forms Control Administrator, Office of the General Counsel, 2601 Blair Stone Road, Tallahassee, Florida 32399-2500. ~~Requests for copies to be mailed must be accompanied by a self-addressed stamped envelope. The effective date of this form is March 2, 2000.~~

(b) Contraband items to be used during outside court cases as evidence will be referred to the Inspector General's Office for handling held as evidence by the institution inspector or senior inspector assigned to the criminal investigation. The Inspector General's Office will either assume custody of the contraband or instruct the institution to hold it as evidence. In

either case, the initial confiscating authority will establish the chain of evidence, and ensure it is properly followed. Form DC1-801, Chain of Custody, shall be used for this purpose. Form DC1-801 is hereby incorporated by reference. Copies of this form are available from the Forms Control Administrator, Office of the General Counsel, 2601 Blair Stone Road, Tallahassee, Florida 32399-2500. The effective date of this form is _____.

(c) No change.

(d) Legal material belonging to another inmate shall be returned to the owner.

(e)(d) Except as described in paragraphs (c) and (d) above, any contraband found upon, or in the possession of, any inmate, shall be confiscated and the proceeds deposited in the Inmate Welfare Fund. Items containing no monetary value or that cannot be liquidated will be disposed of in one of the following manners:

1. through 3. No change.

(f) The provisions of the above this paragraph shall not be construed to apply to property impounded incident to the initial reception or the subsequent transfer of an inmate unless the inmate's possession of the property was in violation of law or Department or institution rule.

(g)(e) No change.

(h) A seized contraband item that results in criminal charges shall be stored for six months or until the conclusion of the court proceedings. Confiscated weapons shall be stored for six months pending the outcome of the disciplinary charges and conclusion of the grievance process or the court proceedings. Staff shall obtain the approval of the warden or assistant warden prior to the item being destroyed or disposed of unless the item is in the possession of the Inspector General's Office, wherein that office's destruction of evidence process will be followed.

(i) Regardless of whether or not the seized contraband results in a disciplinary report or criminal charges, the inmate is authorized to appeal the action through the grievance process to have the property returned. If the inmate chooses to file a grievance, the inmate must notify the warden of his intent on an Inmate Request, Form DC6-236, within 20 days of the seizure of the items. If no notice is received and the inmate has not been temporarily impeded from sending such notice due to unavoidable circumstances such as court appearances or hospitalization, the warden or assistant warden is authorized to approve disposal of the contraband. Form DC6-236 is incorporated by reference in Rule 33-103.019, F.A.C.

(8)(a) All cells, lockers, dormitories and other areas of an institution may be searched in a reasonable manner at any time. A copy of Form DC6-220, Inmate Impounded Personal Property List, shall be given for any property taken in such a search if the inmate acknowledges possession or if the property was taken from an area occupied by the inmate or under his control. The inmate's acceptance of his copy of Form DC6-220

shall not constitute admission of possession of contraband. Form DC6-220 is hereby incorporated by reference in subsection 33-602.201(16), F.A.C. Copies of the form are available from the Forms Control Administrator, Office of the General Counsel, 2601 Blair Stone Road, Tallahassee, Florida 32399-2500. Requests for copies to be mailed must be accompanied by a self-addressed stamped envelope. The effective date of this form is March 2, 2000.

(b)1. The Regional Director of Institutions is authorized to ~~may~~ declare an emergency situation to exist if he finds, upon the advice and request of the warden, that an immediate mass ~~search~~ ~~shakedown~~ is necessary to preserve the security and order of the institution and sufficient staff are not available to follow routine procedures of accounting and receipting for property. Within 72 hours after the declaration, the warden shall prepare a written statement setting forth the facts showing such emergency, which statement shall be forwarded to the Regional Director, who shall prepare a report to the Secretary justifying the declaration.

2. Copies of Form DC6-220 do not have to be given immediately for property taken during such a mass ~~search~~ ~~shakedown~~. However, the property taken shall be kept and preserved, identified as to the area from which it was taken, and the inmate shall receive a copy of Form DC6-220 as soon as practicable after the emergency has ceased. Property unclaimed after 30 days shall be disposed of as provided in subsection (7).

3. If items of inmate personal property are damaged or destroyed by Department staff during routine ~~searches~~ ~~shakedowns~~, emergency ~~searches~~ ~~shakedowns~~ or while impounded, the warden or his designee shall cause an investigation to be made to determine:

a. through e. No change.

4. No change.

Specific Authority 944.09, 945.215 FS. Law Implemented 944.47, 945.215 FS. History—New 10-8-76, Amended 2-24-81, 4-18-82, 8-13-84, 2-13-85, 6-2-85, Formerly 33-3.06, Amended 2-9-87, 11-3-87, 8-14-90, 11-22-91, 1-06-94, 5-28-96, 10-26-97, Formerly 33-3.006, Amended 3-2-00, _____.

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

Florida Real Estate Appraisal Board

RULE TITLE: Continuing Education
 RULE NO.: 61J1-4.003

PURPOSE AND EFFECT: The purpose of the proposed rule development workshop is to bring the rule into compliance with statutory changes.

SUBJECT AREA TO BE ADDRESSED: The proposed rule development affects rule provisions relating to continuing education courses.

SPECIFIC AUTHORITY: 475.614 FS.

LAW IMPLEMENTED: 475.613, 475.618 FS

A RULE DEVELOPMENT WORKSHOP WILL BE HELD AT THE TIME, DATE AND PLACE SHOWN BELOW:

TIME AND DATE: 8:30 a.m., or as soon thereafter as possible, April 1, 2003

PLACE: Division of Real Estate, Room 901, North Tower, 400 West Robinson Street, Orlando, Florida 32801

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT, IF AVAILABLE, IS: Lori Crawford, Deputy Clerk, Division of Real Estate, 400 West Robinson Street, Hurston Building, North Tower, Suite N802, Orlando, Florida 32801

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS AVAILABLE FROM THE CONTACT PERSON LISTED ABOVE.

DEPARTMENT OF ENVIRONMENTAL PROTECTION

DOCKET NO.: 03-10R

RULE CHAPTER TITLE: Total Maximum Daily Loads
 RULE CHAPTER NO.: 62-304

RULE TITLES: Scope and Intent
 RULE NOS.: 62-304.100
 Definitions 62-304.200

Total Maximum Daily Loads in the Northwest Florida District 62-304.300

Total Maximum Daily Loads in the Northeast Florida District 62-304.400

Total Maximum Daily Loads in the Central Florida District 62-304.500

Total Maximum Daily Loads in the Southeast Florida District 62-304.700

The Florida Department of Environmental Protection announces the initiation of rule development, and five rule development workshops (dates set out below), in preparation for rulemaking to establish Total Maximum Daily Loads, as follows: Lake Lafayette (March 21, 2003), the Fenholloway River (March 20, 2003), the Orange Creek Basin (March 18, 2003), Lake Apopka, the Upper Ocklawaha Chain of Lakes area, the Ocklawaha River (March 19, 2003) and several tributaries to Lake Okeechobee (March 18, 2003).

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 entitled "Official Notices."

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Jan Mandrup-Poulsen, Administrator, Watershed Assessment Section, Mail Station 3555, 2600 Blair Stone Road, Tallahassee, Florida 32399-2400

DEPARTMENT OF HEALTH

Board of Medicine

RULE TITLE: Organization
 RULE NO.: 64B8-40.004

PURPOSE AND EFFECT: The Board proposes to set forth criteria for council member attendance at Council Meetings.

SUBJECT AREA TO BE ADDRESSED: Organization.

SPECIFIC AUTHORITY: 468.507 FS.

LAW IMPLEMENTED: 456.011 FS.

IF REQUESTED IN WRITING AND NOT DEEMED UNNECESSARY BY THE AGENCY HEAD, A RULE DEVELOPMENT WORKSHOP WILL BE NOTICED IN THE NEXT AVAILABLE FLORIDA ADMINISTRATIVE WEEKLY.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT, IF AVAILABLE, IS: Kaye Howerton, Executive Director, Board of Medicine, Dietetics and Nutrition Practice Council/MQA, 4052 Bald Cypress Way, Bin #C05, Tallahassee, Florida 32399-3253

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

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

Family Safety and Preservation Program

RULE TITLES: Definitions
 RULE NOS.: 65C-16.001

Adoptive Family Selection 65C-16.002

Case Reviews 65C-16.003

Recruitment, Screening and Application Process for Adoptive Applicants 65C-16.004

Evaluation of Applicants 65C-16.005

Abuse Hotline and Criminal Records Checks 65C-16.007

Dispute Resolutions and Appeals 65C-16.008

Adoption Placement 65C-16.009

Adoption Placement – Post Placement Services 65C-16.010

Confidentiality – Human Immunodeficiency Virus (HIV) Infected Clients 65C-16.011

Types of Adoption Assistance 65C-16.012

Determination of Maintenance Subsidy Payments 65C-16.013

Determination of Medical Subsidy 65C-16.014

Non-Recurring Adoption Expenses 65C-16.015

Access to Closed Adoption Records 65C-16.016

Florida Adoption Reunion Registry 65C-16.017

PURPOSE AND EFFECT: These substantial rule modifications will reflect changes to state and federal law, internal departmental procedural and policy and changes and will eliminate interest of individuals in the area of adoptions. The rule recognizes community based providers as providers of adoption services under contract with the department, modifies and clarifies the role and operation of the adoptive Family Review Committee, provides for rejection of applicants wishing to adopt if they have prior findings of abuse, neglect or abandonment; determining maintenance adoption subsidy.

SUBJECT AREA TO BE ADDRESSED: Adoptions.

SPECIFIC AUTHORITY: 39.021, 63.126, 63.233, 120, 240.235(5)(a), 381.004, 382.003(10), 401.301, 409.031, 409.145, 409.165, 409.166(2),(6),(7), 409.919, 435.045 FS.

LAW IMPLEMENTED: 39.021, 63.126, 63.233, 120, 240.235(5)(a), 381.004, 382.003(10), 401.301, 409.031, 409.145, 409.165, 409.166(2),(6),(7), 409.919, 435.045 FS.

IF REQUESTED IN WRITING AND NOT DEEMED UNNECESSARY BY THE AGENCY HEAD, A RULE DEVELOPMENT WORKSHOP WILL BE HELD AT THE TIME, DATE AND PLACE SHOWN BELOW:

TIME AND DATE: 10:00 a.m., March 25, 2003

PLACE: 1317 Winewood Blvd., Building 8, Room 232, Tallahassee, FL 32399

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT IS: Carol Hutcheson, Senior Management Analyst Supervisor, Adoptions Unit, Family Safety Program Office, 1317 Winewood Blvd., Building 7, Suite 208, Tallahassee, Florida 32399, (850)921-2177

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

(Substantial rewording of Rule 65C-16.001 follows. See Florida Administrative Code for present text.)

65C-16.001 Definitions.

(1) “Abuse Hotline” means the department’s single statewide toll-free telephone number established for the purpose of receiving reports of child abuse, abandonment or neglect.

(2) “Adoption” means “adoption” as defined in Section 63.032(2), F.S.

(3) “Adoption Assistance” means payments and services provided to a special needs child and his or her adoptive family, as specified in the adoption assistance agreement. Such assistance may include maintenance subsidy, medical subsidy, Medicaid and reimbursement of non-recurring expenses associated with the legal adoption. College tuition exemption is also available. State employees may be eligible for an employee adoption benefit.

(4) “Adoption Entity” means “adoption entity” as defined in Section 63.032(2), F.S.

(5) “Adoption Exchange” means a mechanism for linking adoptive family resources with children needing adoption placement. The Exchange serves all department adoption and foster care staff, and the staff of licensed child placing agencies in Florida.

(6) “Adoption Home Study” means a written evaluation of the adoptive parents’ capacity for adoptive parenthood. The study assesses the applicants’ home and living environment, their marriage, family and social activities and relationships.

(7) “Adoption Reunion Registry” means a voluntary computer data base which acts as a repository for current names, addresses and telephone numbers of parties to any Florida adoption.

(8) “Agency” means “agency” as defined in Section 63.032(5), F.S.

(9) “At-Risk Adoptive Placement” means a placement of a minor in the home of an approved adoptive parent prior to the termination of the minors’ parents’ parental rights.

(10) “Children’s Case Manager” means a person who is responsible for participating in the development and implementation of a service plan, linking the behavioral health service providers to a child or adolescent and his or her family, monitoring the delivery of behavioral health services, providing advocacy services, and collecting information to determine the effect of the behavioral health services and treatment.

(11) “Community Based Provider” means a private agency which has entered into a contract with the department to provide supervision of and services to children in out-of-home placements.

(12) “Court” means “court” as defined in Section 63.032(7), F.S.

(13) “Custodian” means a person or entity in whom the legal right to custody of a child is vested.

(14) “Department” means the Department of Children and Families.

(15) “Disruption” means the termination of an adoption placement prior to legal finalization.

(16) “Dissolution” means a termination of an adoption following legal finalization.

(17) “District/Region” means a geographic area through which the department plans and administers its programs.

(18) “Intermediary” means “intermediary” as defined in Section 63.032(9), F.S.

(19) “Interstate Compact” means an agreement among states, enacted into law in all 50 states, the District of Columbia and the Virgin Islands, which governs the interstate movement of children. It establishes orderly procedures for the interstate adoptive or out of home placement of children, including post-placement supervision.

(20) “Lead Agency” means “eligible lead community-based provider” as defined in Section 409.1671(1)(b), Florida Statutes.

(21) “Mental health multidisciplinary team” means the group of people brought together by the child’s mental health case manager to plan and coordinate mental health and related services to meet the child’s needs in the most appropriate, least restrictive setting. Members of the team should include the child, unless contraindicated, the child’s parent or legal guardian, caregiver, targeted case manager, psychiatrist,

therapist or behavioral specialists, family safety counselor and any other agency representative who is providing mental health or related services to the child.

(22) “Non-Recurring Adoption Expenses” means reasonable and necessary adoption fees, court costs, attorney fees, and other expenses that are directly related to the legal adoption of a special needs child, that were incurred prior to adoption finalization.

(23) “Placement” means the act of physically moving a minor into the physical custody of the prospective adoptive parent, or in the case of adoption by a foster parent, relative, or other current caretaker, the date the placement agreement is signed.

(24) “Primary Residence and Place of Employment in Florida” means “Primary Residence and Place of Employment” as defined in Section 63.032(17), F.S.

(25) “Relative” means “relative” as defined in Section 39.01(60), F.S.

(26) “Significant Emotional Tie” means the relationship between a child and his or her caretaker family when a child is bound to that family in such a vital and ardent manner that removal of the child from that family would have detrimental consequences for the child. This term is also used in evaluating a child’s eligibility for adoption subsidy when the question of eligibility rests solely on his adoption by the current caretaker.

(27) “Sibling” means one of two or more individuals having one or both parents in common.

(28) “Single Point of Access” means the designated district/region staff person or Alcohol, Drug Abuse and Mental Health or the authorized agent designated by the department within a geographical area who is identified as the point of contact to assist the family services counselor in accessing mental health assessments and other mental health services for children in the care and custody of the department.

(29) “Special Needs Child” means “special needs child” as defined in Section 409.166(2), F.S.

(30) “Suitability of Intended Placement” means the fitness of the intended placement with primary consideration given to the welfare of the child and the fitness and capabilities of the adoptive parents for a particular child.

(31) “To Place” means the process of giving up a child for adoption and the prospective parents’ receiving and adopting the child including all actions by any person or agency participating in the process.

Specific Authority 63.233, 409.166(7), 409.167(6) FS. Law Implemented 39.01, 63.032, 63.092, 63.122, 63.165, 63.192, 63.212, 409.166, 409.167, 409.401 415.508 FS. History—New 4-28-92, Amended 4-19-94, Formerly 10M-8.0013, Amended 12-4-97, _____.

(Substantial rewording of Rule 65C-16.002 follows. See Florida Administrative Code for present text.)

65C-16.002 ~~Adoption Placement— Children Placement~~
Adoptive Family Selection.

(1) The authority of the Department regarding adoption is limited to facilitating the adoption of children with special needs. Persons seeking to adopt non-special needs children will be referred to private agencies. Birth parents seeking adoption planning for their non-special needs children will be referred to private adoption agencies. Any non-special needs children in the care of the department for whom adoption is the goal, will be referred to private adoption agencies for placement planning, unless there is a plan for adoption by the current custodian.

(2) General Policy. A person or government involved in adoption may not deny to any individual the opportunity to become an adoptive parent on the basis of race, color or national origin of the individual or the child. A person or government may not delay or deny the placement of a child for adoption on the basis of race, color or national origin of the adoptive parent or the child.

(3) It is the policy of the state and of the department that adoption placements must be made consistent with the best interest of the child. The role of good judgment in assessing the best interest of the child cannot be replaced by rote policy decrees. The exercise of that judgement must be shaped by the following considerations:

(a) Grandparent priority. Grandparents with whom a child has lived for at least six months must be notified that their grandchild is being considered for adoption as specified in Section 63.0425, F.S. Such grandparents must be afforded the opportunity to have a home study completed and to petition for adoption, and the court is required to give first priority to that petition.

(b) Other relative priority. Other relatives may wish to be considered as an adoption placement for the child. If such a relative is identified and requests consideration for adoption placement, the application of the relative must be evaluated to determine suitability through an adoptive home study.

(c) Current custodian priority. The current custodian of the child may wish to adopt. If the custodian applies to adopt the child, the application must be evaluated to determine suitability through an adoptive home study. The homestudy must assess the length of time the child has lived in a stable, satisfactory environment and the depth of the relationship existing between the child and the custodian. It should be recognized that individuals who might not be considered the placement of choice for children not known to them, can be the placement of choice for children with whom they have an existing stable relationship. There are some situations in which adoption by the current custodian may not be in the best interest of the child. Examples of these situations include:

1. The current custodians want to adopt a child but not his or her siblings and it is in the best interest of the sibling group to be placed together.

2. The current custodian has returned other adopted children to the department, or has arranged for some other out-of-home informal long-term placement for a previously adopted child.

(d) Non-custodian with whom child has a relationship. Persons known to the child, but who do not have custody of the child, may wish to be considered for adoption. If such persons apply to adopt the child, the application must be evaluated to determine suitability through an adoptive home study. In addition, the depth of the relationship existing between the child and the non-custodial applicant must be examined.

(e) Family new to the child. Many families who pursue adoption do not have a specific child in mind when they apply. These families must be provided information about the children available for adoption through the department, and must be helped, through training, preparation, and the homestudy process, to determine if special needs adoption is appropriate for their family.

(4) Siblings.

(a) When considering adoption placement of a sibling group, the department must consider the fact that placing siblings together, whenever possible, preserves the family unit.

(b) In situations where consideration is being given to separating siblings, the adoption unit must staff the case as a team. The team must consider the emotional ties existing between and among the siblings and the degree of harm which each child is likely to experience as a result of separation. The positives and negatives of keeping the children together must be thoroughly explored, and at least one member of the team must be assigned the role of defending the position of placing the children together. In particularly difficult cases, professionals who have expertise in this area can be consulted.

(c) The decision to separate siblings must be approved in writing by the district/region Family Safety Program Office or the community based provider staff charged with this responsibility. Adoption staff will prepare a memorandum directed to the district/region Family Safety Program Office or the appropriate community based provider staff describing efforts made to keep the siblings together and an assessment of the short term and long range effects of separation on the children. The memorandum must also include a description of the plan for future contact between the children if separation is approved. The plan must be one to which each adoptive parent and caretaker can commit.

(d) If after placement as a sibling group, one child does not adjust to the family, a decision must be made regarding what is best for all of the children. The adoption staff must review this situation as a team, and choose the plan that will be least detrimental to the children. The decision must be documented

in the children's files. This documentation must also include the plan for future contact if the decision is to pursue separate placements.

(e) Sometimes the department may take into custody a child who is a sibling to previously adopted children. The department shall advise the adoptive parents of this occurrence. If this child becomes available for adoption, the adoptive parents of the previously placed sibling shall be given an opportunity to apply to adopt this child. The application of these adoptive parents will be given the same consideration as an application for adoption by a relative, as described above.

(5) Occasionally a child whose parental rights have been terminated, for whom there is a plan for foster parent adoption, has relatives who indicate an interest in adopting after the termination process is completed. The following factors must be considered in making a decision that represents the best interest of the child in this situation.

(a) Attachment. Consideration must be given to the quality and length of the attachment to the foster parent. The age of the child at placement and the current age must be considered in assessing attachment. The ease with which the child attached to the current family and any indications of attachment difficulty in the child's history must be evaluated. The number of moves the child has experienced will be an important factor in determining the likelihood that the child will form a healthy attachment to the relative.

(b) Kinship. Children have a shared history with extended family and cultural values and traditions are more likely to be passed on to the child when there is opportunity to grow up in the care of family members. Consideration must be given to the quality of the relationship with the relative. Some children will already know and trust the relative seeking to adopt. If not, the willingness of the relative to participate in pre-placement activities to promote the development of a relationship must be considered.

(c) Permanence. The capacity of the relative and the foster parent to meet the child's need for permanence must be evaluated. The ability of the prospective parent to understand the needs of adoptive children in different developmental stages and their awareness of the inherent challenges of parenting an adopted child must be carefully considered.

(6) In any adoptive placement of a Native American child, the federal "Indian Child Welfare Act" governs the order of placement preference. While the Indian Child Welfare Act gives a placement preference, it allows each tribe to establish a different order of preference by resolution, and that order must be followed. The Act lists the placement preference for adoption of an Indian child in the following order:

(a) A member of the child's extended family;

(b) Other members of the Indian child's tribe; or

(c) Other Indian families.

(7) Study of the Child. Completing the study of the child is an important part of the preparation needed to find an adoptive family. Before preparing the study of the child, the counselor must be thoroughly familiar with the content of the child's foster care record. The record must include all available information regarding the child and the birth family's medical and social history. All available social and medical history information must be provided to the adoptive parents prior to or at the time of the adoption placement. The study of the child, with identifying information removed, will be a part of the written background information provided to the adopting family. A study of the child will include:

(a) Developmental History. A developmental history must be obtained from the birth parents whenever possible. When the child has been in care for a period of time, developmental history obtained from birth parents must be supplemented by direct study and observation by the counselor, foster parents, pediatrician, and if indicated, psychologist, teacher and other consultants. The developmental history must include:

1. Birth and health history.
2. Early development.
3. Child's characteristic way of responding to people.
4. Deviations from the normal range of development.
5. Child's prior experiences, including continuity of care, separations, and information regarding other known significant relationships the child has had prior to and since entering foster care.

(b) Medical History. A medical examination must be completed by a qualified physician, preferably a pediatrician, to determine the child's state of health and significant health factors which may interfere with normal development. The medical history must take into consideration the following:

1. Circumstances of birth and possible birth trauma.
2. Congenital conditions which may have been corrected or need additional correction or treatment.
3. Physical handicaps that may interfere with normal activity and achievement.
4. Significant illnesses and health of the child, parents and other family members.
5. Immunization record of the child.

(c) Family History. Family history will be obtained from birth parents when possible and will include any significant information about both parents and any siblings. Material about the child's birth family, which will be shared with the adoptive family and later with the child, must be carefully and accurately recorded. This information should include:

1. Age of both parents.
2. Race, national origin or ethnicity.
3. Religion.
4. Physical characteristics.
5. Educational achievements and occupations.

6. Health, medical history and possible hereditary problems.

7. Personality traits, special interests and abilities.

8. Child's past and present relationship with family members and the significance of these relationships.

(d) Psychological and Psychiatric Evaluations. Psychological or psychiatric evaluations of children known or suspected of having mental health problems must be obtained prior to the adoption placement. Any child who will be placed for adoption with medical subsidy for treatment of a psychological or psychiatric condition must have had such an evaluation within the 12 month period preceding the adoption placement.

(e) Heredity. There are no hereditary factors that rule out adoptive planning for a child. Genetic and medical professionals will assist in deciding which hereditary conditions entail significant risk because they limit life expectancy or adversely effect normal development. With the recognition that there are adoptive parents who are willing to accept children with special needs, such conditions must be carefully evaluated. An unfavorable diagnosis does not rule out adoption for the child when there are families willing to assume the risks.

(f) Pre-placement Physical Examination. Prior to placement every child must be given a complete physical examination. This will be completed when a specific family is being considered for a child and they express interest in proceeding after having received specific information about the child. Should placement with an identified family not occur after the physical has been completed, another examination will not be necessary if the child is placed with a subsequent family within six months of the date of the physical. No child will be placed without a physical which has been conducted within six months of placement. The department will arrange to have the examination completed or if the adoptive family prefers, the examination may be completed by the family's pediatrician at their expense, and a copy provided to the department. It is important that this examination be thorough and provide the potential adoptive family and the counselor with a clear understanding of the child's physical condition.

(8) The information discussed in (a) through (f) must be shared in writing with the adoptive parents. The identity of the birth family must be protected when providing this written material to the family.

Specific Authority 39.012, 63.233, 409.026 FS. Law Implemented 39.41, 39.464, 39.467(2)(k), 63.0425, 63.052, 63.062(3), 409.145 FS. History—New 2-14-84, Formerly 10M-8.02, Amended 5-20-91, 4-28-92, 4-19-94, 8-17-94, 1-8-95, Formerly 10M-8.002, Amended 12-4-97, _____.

(Substantial rewording of Rule 65C-16.003 follows. See Florida Administrative Code for present text.)

65C-16.003 Case Reviews.

(1) The purpose of case reviews is to ensure that appropriate permanent plans are developed and executed for every child at the earliest possible time.

(2) The case review requirements for children in adoption planning consist of three types of reviews:

(a) Judicial Review. All children served by the department's adoption units, including those for whom a termination of parental rights has not been completed and those for whom termination of parental rights has been completed are subject to periodic court review. Children in adoption placements that have not yet finalized are subject to court review until legal finalization of the adoption. Judicial Review reports for children in adoption planning must include information about reasonable efforts to recruit an adoptive family, place the child for adoption and finalize the adoption.

(b) Quarterly Case Staffings. Local case management staff responsible for planning for children in need of adoption will meet together as a team to staff and assess the needs of waiting children and available families. The teams will meet as often as necessary to assure that permanency needs are met. Each waiting child is to be staffed at least quarterly.

(c) Supervisory Consultation. Supervisory consultation is an on-going function of direct service supervision. Consultation must be directed at ensuring thorough case assessment, case planning and service delivery. Supervisory consultation must be provided to every direct service staff member regardless of prior training and experience, and must include individual supervisory case conferences, at least monthly.

Specific Authority 39.12 FS. Law Implemented 39.701, 39.703, 39.451, 39.453, 409.145, 409.175, 409.1955 FS. History--New 4-28-92, Amended 4-19-94, Formerly 10M-8.0023, Amended 12-4-97.

(Substantial rewording of Rule 65C-16.004 follows. See Florida Administrative Code for present text.)

65C-16.004 Recruitment, Screening and Application Process for Adoptive Applicants.

(1) The department or community based care provider will ensure that an assessment of adoptive parent resource needs is done in each district at the beginning of each calendar year, and that recruitment activities are planned for the year based on the results of the assessment. The districts' annual recruitment plan will be submitted to the headquarters Family Safety Program Office by February 15 of each year. The headquarters Family Safety Program Office staff will develop a statewide recruitment plan, based on the needs of individual districts, as reflected in the district plans.

(2) The recruitment activities must be designed to meet the needs of all children in foster care who need adoptive homes and must include informational meetings for potential adoptive applicants to be held at least every 90 days.

(3) The department and its designees shall recruit adoptive families that reflect the ethnic and racial diversity of children needing adoptive placement.

(4) The prospective adoptive parents' initial inquiry to the Department of Children and Families local office, or to the community based provider, whether written or verbal, will receive a written response or a telephone call within seven (7) working days. Prospective adoptive parents who indicate an interest in adopting special needs children must be offered the opportunity to participate in the department's approved adoptive parent training program. If space is limited in scheduled classes, slots in the classes will be assigned in the following priority order:

(a) Persons with an existing relationship with a specifically identified child who is waiting for adoption placement, or that child's sibling.

(b) Persons who have expressed an interest in adopting a specifically identified child waiting for adoption, or that child's sibling.

(c) Persons who have explicitly stated their willingness to adopt children available for placement through the department or its designee; and

(d) Persons expressing a general willingness to adopt special needs children.

(5) An application to adopt must be made on a form approved by the department, which includes necessary identifying information and information required by statute.

Specific Authority 39.012, 63.233 FS. Law Implemented 63.022(2)(c), 409.145, 409.401 FS. History--New 7-18-95, Formerly 10M-8.0042, Amended _____.

(Substantial rewording of Rule 65C-16.005 follows. See Florida Administrative Code for present text.)

65C-16.005 ~~Adoption~~ Placement Evaluation of Applicants.

(1) No person shall be denied the opportunity to become an adoptive parent on the basis of race, color or national origin. The placement of a child with a particular family must not be denied or delayed on the basis of race, color or national origin of the family or the child.

(2) A social study which involves careful observation, screening and evaluation shall be made of the child and adoptive applicants prior to the placement of the child. The aim of this evaluation is to select families who will be able to meet the physical, emotional, social, educational and financial needs of a child, while safeguarding the child from further loss and separation from primary caretakers.

(3) In determining which applications for adoption should be approved, all of the following criteria, not listed in any order of priority, must be considered:

(a) The child's choice, if the child is developmentally able to participate in the decision. The child's consent to the adoption is required if the child is age 12 or older.

(b) The ability and willingness of the adoptive family to adopt some or all of a sibling group, although no individual child shall be impeded or disadvantaged in receiving a loving and nurturing home due to the inability of the adoptive family to adopt all siblings. The needs of each individual child must be promoted.

(c) The commitment of the applicant to value, respect, appreciate, and educate the child regarding his or her racial and ethnic heritage and to permit the child the opportunity to know and appreciate that ethnic and racial heritage.

(d) The family's child rearing experience. Applicants with previous child-rearing experience who exhibit the energy, physical stamina, and life expectancy which would allow them to raise the child to adulthood and who have a demonstrated history of having provided consistent financial support to other minor children, either birth or adopted, will be considered. Applicants who do not have previous child rearing experience but who demonstrate the capacity to parent a special needs child will also be considered. Applicants who have experienced an adoption disruption or dissolution in the past must be carefully evaluated. When evaluating the previous disruption or dissolution experience, staff must assess the reasons for the disruption or dissolution, the family's openness in dealing with the problems that led to the disruption, their willingness to accept help with the problems, and their willingness to help the child move to the next placement.

(e) Marital Status. The department and its designees will accept applications to adopt from married couples and from single adults. Couples married less than two years must be given particularly careful evaluation.

(f) Residence. Florida families must be prepared to remain in Florida long enough to have the adoption study completed, the child placed, and the adoption finalized. Families from other states wishing to adopt Florida children may apply and be studied by an agency authorized or licensed to practice adoption in their state of residence. Out of state placements will be facilitated through established regional or national adoption exchanges or directly with out of state agencies, and will comply with the requirements of the Interstate Compact for the Placement of Children.

(g) Income. The family must have income and resources to assure financial stability and security to meet expenses incurred in adequate care of the family. While a family's income must meet the needs of its current members, a family interested in a special needs child must not be precluded from consideration if the availability of an adoption subsidy would enable them to adopt a special needs child. Management of

current income and the ability to plan for future changes in income so that the child's social, physical and financial needs will be met are as important as the amount of income.

(h) Housing and neighborhood. Housing and neighborhoods must provide adequate space and the living conditions necessary to promote the health and safety of the family.

(i) Health. Applicants will be required to fully disclose health history, current health status, including any condition that is progressive and debilitating in its course, and any past and current treatment and services received for such condition, regarding themselves and each member of the household. The physical, mental and emotional health of the prospective adoptive household members must not jeopardize the safety and permanency of the child's placement and will be considered in determining the best interest of the child.

(j) Other Children in the Family. When families have children by birth or adoption, the anticipated impact of a new child on the family must be considered.

(k) Working Parents. The willingness and ability of prospective adoptive parents who are employed outside the home to make arrangements to be with the child during the transition period must be considered. It is desirable that one parent be free to devote full time to the care of the child for a period of time after placement. The exact length of time is determined by the needs and the age of the child, and the needs of the child must be given priority over the employment situation of the parent.

(l) Department Employees. Employees of the department and the community based care provider will be considered as adoptive applicants. In situations where the employee has a close working relationship with the foster care or adoption staff in his or her district or provider agency, or had such a relationship in the recent past, the applicants study shall be conducted by another district or a licensed adoption agency. The district Family Safety Program Office or the appropriate entity in the provider agency must be notified immediately when an application to adopt is received from a departmental or provider agency employee. The office or the provider entity will make a decision regarding whether the adoption study for the employee will be completed by the district or provider agency, or if the services of another district or agency will be sought. If the decision is to have the employees adoption study and subsequent placement handled by another district or agency, the district Family Safety Program Office or the provider entity will make the necessary arrangements with the Family Safety program office in the other district or the chosen agency. When an adoptive applicant is a member of a board or group which has actual or perceived authority over the department, its community based provider, its staff or operations, such applicant will be referred to another district or a local licensed child placing agency for handling.

(m) Affidavit of Good Moral Character. All adoptive parent applicants must complete an affidavit of good moral character attesting to their own good moral character. Foster parents who are adopting a foster child in their home and who have completed this affidavit as a part of their licensing requirements need not complete it again.

(n) All adoptive applicants must complete the requirements for background screening as outlined in Rule 65C-16.007, F.A.C.

(o) Use of References. A minimum of five written references will be required. At least two of the references will be non-relatives. References must be obtained from persons who have had the opportunity to observe the applicants in situations that may give some indication for their capacity for parenthood or who would have documented knowledge of deviant behavior or immoral character. References should be obtained from employers of applicants and from schools or day care providers who have had an opportunity to know the family.

(4) Family Preparation and Study Process.

(a) Adoption staff must explain to applicants what to expect during the preparation and study process. The process must also help to establish a relationship with adoptive applicants which will make it possible for them to ask for and use help during the presentation, pre-placement, placement and the post-placement adjustment period.

(b) The department's approved adoptive parent training program provides a format through which prospective foster, shelter and adoptive parents can be selected and prepared to work with the department as team members in permanency planning.

(c) At the beginning of each year districts and community based care organizations responsible for adoption services must establish a 12 month training calendar so that inquiring families can be aware of when they can expect to begin the preparation process. Districts and providers must also maintain the ability to conduct extra training groups when there is a need. This will be particularly important when there are significantly higher numbers of families waiting for group than can be accommodated in the regularly scheduled sessions. Districts and providers who assure that all appropriate adoption licensing and foster care staff are trained and certified in the delivery of the adoption training will be prepared to deal with such emergency situations.

(5) Family Preparation Through Use of the Individual Study Process.

(a) Although the most preferred method of preparing applicants for adoptive parenthood is the group process, there will be exceptional cases in which an individual study approach must be used. Some examples of factors which might led to a decision to prepare an applicant family via an individual study are as follows:

1. Extreme distance which would cause hardship for the family.

2. Small numbers of inquiring families at irregular times.

3. Families who are adopting subsequent children and have already been trained.

4. Cases in which the child has been living in the home for an extended period and there is evidence of well functioning relationships.

(b) Each decision to use the individual study approach must be approved in writing by the district Family Safety Program Office, or the appropriate entity in the community based agency, and the family's record must include justification for use of this method.

(c) The focus of the individual study, as in group preparation, must be on education and preparation of the family.

(6) Families Who Adopt Again. Prior approval of a family to adopt does not automatically deem the family appropriate to adopt again. Families previously approved in other states or districts/regions should be carefully evaluated. Consideration of any family for placement of a subsequent child requires an updating of the previous study. Such an update will include an assessment of the following:

(a) Issues Related to the Previously Adopted Child. This should include a brief description of the child, his or her incorporation into the family, and the skills the parents have demonstrated in providing for this child.

(b) Motivation of the family in seeking to adopt another child at this time.

(c) School adjustment of the previously adopted child.

(d) Health Needs. Any significant medical problems and any impact they have had on the previous adoption or might be expected to have on subsequent placements must be discussed.

(e) Housing needs and the capacity of the home to comfortably accommodate another child.

(f) Income. Any major changes in the family income must be discussed. A determination should be made as to whether or not the addition of another child, even with adoption subsidy, will tax the family's ability to manage within their current income.

(g) Marriage. The effect of the previous adoption on the marriage must be discussed.

(h) Extended Family and Neighbors. How the previous adoption has been perceived, received or rejected by family and/or neighbors and, if applicable, the coping skills of the adoptive family in dealing with adverse reactions to the adoption.

(i) Updated References. References should be asked to address how the family seems to have managed with the previously adopted child and how they believe the family will cope with additional children.

(j) Abuse Hotline/Criminal Records Check. Abuse Hotline and criminal records checks must be conducted as part of each subsequent application to adopt.

(k) Other Major Changes. Address any additional family members not considered in the initial study. Also address any other major changes such as job changes, deaths, and serious illness or medical conditions which may have had an effect on the family or which may compromise the applicants ability to meet the needs of another child.

(7) The Written Adoption Study. Whether or not the parent preparation is conducted in a group process or in an individual study, a written report, generally referred to as the adoption home study, must be prepared for each studied family. The written home study must address the issues discussed in (1) through (6) above.

(8) At the conclusion of the preparation and study process, the counselor and supervisor will make a decision about the family's appropriateness to adopt. That decision will be reflected in the final recommendation included in the written study. If the recommendation is for approval, the study and written recommendation will be submitted to the Family Safety Program Administrator or designee or the appropriate entity in the community based care agency for approval. If the counselor and supervisor do not recommend approval the case will be reviewed by Adoption Review Committee according to the directions provided in subsection 65C-16.0061(9), F.A.C.

(9) Adoption Review Committee. Each district and community based care provider responsible for providing adoption services for children in the department's custody must establish an Adoption Review Committee. The committee will consist of at least three (3) persons, and may include the district adoption specialist. The district or community based care agency will select a committee member to serve as the committee chair.

(a) The committee will provide consultation and assistance to the adoption counselor on any adoptive homestudy in which the counselor and supervisor are recommending rejection, or adoption case situations which present challenging issues. Requests for committee review may be made by the adoption counselor, the adoption specialist, the family safety program administrator or the appropriate entities with the community based provider. Requests for committee review will be made in writing and forwarded to the adoption specialist or the appropriate entity in the community based care agency. While the committee is available to review any challenging case, cases with the following issues must be referred to the committee.

1. Health. Cases in which it is determined that the adoptive applicant is experiencing a serious or chronic medical condition and such condition predictably compromises or could compromise the applicant's ability to provide the physical, emotional, social and economic support necessary for the child to thrive.

2. Abuse History. Cases in which the Abuse Hotline clearance reveals verified findings of abuse, neglect, or abandonment which did not result in a disqualifying felony conviction, and cases in which there were some indicators of abuse or neglect.

3. Criminal History. In cases in which the required criminal history checks pursuant to s. 435.045(1), F.S. reveal that the applicant(s) have been convicted of crimes specified in s. 435.045(1)(a)1., F.S., their application must be rejected. A referral to the adoptive applicant review committee will not be required. The applicant must be advised that he or she cannot be approved. If the criminal history check reveals that the applicant was convicted of a law violation listed in s. 435.045(1)(a)2., F.S., within the last five years, the applicant cannot be considered for approval, until five years after the violation was committed. These applicants must be referred to the committee.

4. Cases in which the applicant is a current or former foster parent and the review of the foster parent file reveals that there have been care and supervision concerns or a violation of licensing standards.

5. With the exception of those applicants convicted of a crime specified in s. 435.045(1)(a), F.S., counselors must seek the assistance of the committee prior to a decision to reject an applicant.

(b) The adoptive applicant review committee chairperson will convene the committee and issue a written recommendation to district legal counsel or the appropriate entity within the community based care agency within 30 days of receipt of the request. Following input from district legal counsel or the community based care entity, the chairperson will prepare a written report summarizing consensus of the committee and the recommendation from district legal counsel or the community based care agency entity. This recommendation will be submitted to the district administrator or the chief executive officer of the community based care agency.

(c) The district administrator or chief executive officer will make the final decision to approve or reject the application. The adoptive applicant will be notified in writing within 10 working days of the decision. The written notice must include the reason for the rejection, and must advise the applicant of his/her judicial option as described in the Administrative Procedures Act, Chapter 120, F.S.

Specific Authority 39.012, 63.233 FS. Law Implemented 63.022(2)(c), 63.122, 409.145, 409.401, 415.51(2)(a),(6); 435.045 FS. History—New 2-14-84, Formerly 10M-8.05, Amended 4-28-92, 4-19-94, 8-17-94, 1-8-95, 7-18-95 Formerly 10M-8.005, Amended _____.

(Substantial rewording of Rule 65C-16.007 follows. See Florida Administrative Code for present text.)

65C-16.007 Abuse Hotline and Criminal Records Checks.

(1) Abuse Hotline checks must be conducted on all adoptive applicants. The applicants must be informed of this part of the investigation early in the homestudy process and must provide written consent for the check to be completed. For applicants who have previously been foster parents or have adopted in other states, Abuse Hotline checks must be completed in the previous state. Abuse Hotline checks must be current within 30 days of placement of an adoptive child in the home.

(a) The counselor must submit to the district background screening coordinator, sufficient information to conduct a search of the Florida Abuse Hotline Information System. Abuse Hotline record checks must also be conducted on all other household members who are 12 years of age or older.

(b) Any request for information from the Abuse Hotline must be in writing and must include a statement of statutory authorization to receive the information.

(c) All Department of Children and Families personnel and other agencies and professionals using information from the Abuse Hotline, or any child abuse case record should be informed that misuse of such information may cause them to be held personally liable, and any person injured or aggrieved by such disclosure may be entitled to damages. Unauthorized release of abuse reports may result in criminal prosecution. The offense is a misdemeanor in the third degree.

(2) Criminal background checks through local, state and federal law enforcement agencies will be conducted on all persons age 18 or older residing in the prospective adoptive home. For applicants who have been foster parents or who have adopted in other states, local and state checks must be completed in the state of previous residence. Should the background reveal that the applicant has been convicted of a crime specified in Section 435.045(1)(a)1., F.S., the application must be rejected. Juvenile delinquency checks through the Florida Department of Law Enforcement must be conducted on all household members twelve through seventeen years of age as a public record search. If this check reveals a Juvenile Justice record, this information must be addressed in the homestudy and a determination must be made regarding possible impact on the adopted child.

(3) For foster parents and relative caregivers who are adopting a department child, federal background checks must be current within 5 years at the time of adoption placement. For potential adoptive parents who are not foster parents or relative caregivers, federal background checks must be current within one year at the time of adoption placement. All potential adoptive parents must have state and local background checks that are current within 90 days of the date of adoption placement.

(4) Applicants who have been convicted of any crime specified under s. 435.045(1)(a)2., F.S., within the last five years cannot be considered for approval until five years after the violation was committed. At that time these applicants must also be referred to the adoption review committee. Applicants who have been found guilty or entered a plea of guilty or nolo contendere for crimes not listed in s. 435.045(1)(a), F.S., shall be carefully evaluated as to the extent of their rehabilitation. Factors to be considered will include the severity of the action resulting in the record, how much time has lapsed since the offense, circumstances surrounding the incident, and whether records indicate single or repeated offenses. Referral of these applicants to the adoption review committee is not required but they must be submitted to the district Family Safety Program Administrator or the appropriate entity in the community based care agency for approval.

(5) Abuse Complaints Against Adoptive Parents.

(a) When the department receives reports of abuse or neglect by adoptive parents whose adoptions have been finalized, they will be handled as any other family on whom a report has been received.

(b) In cases where such reports are received on families whose adoptions are not finalized, the protective investigator will consult with the adoption counselor or supervisor who knows the family and children.

(c) Should an allegation of abuse, neglect or abandonment be made directly to the adoption counselor, the Florida Abuse Hotline must be notified immediately. The report will be transmitted to the district Protective Investigation unit. Complaints which do not contain allegations of abuse, neglect or abandonment and are made directly to the adoption counselor must be investigated by the counselor.

(d) If an investigation of an abuse, neglect or abandonment report by protective investigations reveals that the subject of the report is an adoptive parent whose adoption has not been finalized, the adoption counselor must be notified immediately and must assume responsibilities in the investigation as outlined above. The child should be removed from the adoptive home if he or she meets the criteria for removal pursuant to Section 39.401, F.S.

(e) If abuse or neglect is established but does not warrant immediate or permanent removal of the children, careful consideration should be given to providing services to the family for a specified period of time. Services may be provided by the department's Protective Services unit and a referral to the mental health multidisciplinary team may be appropriate. Prior to the expiration of the specified period of time, input from the district adoption specialist or the appropriate entity in the community based care agency must be sought to assess progress being made and the likelihood that the consent to the adoption may safely be issued. The district adoption specialist or the appropriate entity in the community based care agency

shall convene a meeting to include the protective services counselor and supervisor and the adoption counselor and supervisor. These individuals must decide if the placement will be terminated and the child returned to foster care or if a recommendation to issue consent for finalization of the adoption will be made to the district administrator for the adoption to finalize. The district administrator must provide written approval of the plan to issue consent.

(f) Whether the department recommends finalization of the adoption or removal of the children, information about the complaint, services provided to the family, and reasons for the department's final decision must be documented and provided to the court.

Specific Authority 39.012, 63.233, 409.026(8) FS. Law Implemented 63.022, 63.092(2)(b), 409.145, 415.51(1)(a),(2)(a), 435.045 FS. History—New 5-20-91, Formerly 10M-8.00513, Amended 4-28-92, 4-18-94, 8-17-94, 1-8-95, Formerly 10M-8.0053, Amended _____.

(Substantial rewording of Rule 65C-16.008 follows. See Florida Administrative Code for present text.)

65C-16.008 ~~Complaints~~— Dispute Resolutions and Appeals.

(1) When an adoptive applicant or parent is adversely affected by a decision or action taken by the department, or by a community based agency acting for the department, efforts should be made to settle the dispute at the counselor/supervisor level. If this attempt is unsuccessful, the Adoption Review Committee will be convened as outlined in subsection 65C-16.005(9), F.A.C. If this review results in a decision by the district administrator that supports the departments/agency's original decision, the applicant or parent must be told of that decision in writing and advised of their judicial option as described in the Administrative Procedures Act, Chapter 120.68, F.S. and of their right to a hearing pursuant to s. 120.57, F.S.

(2) Adoptive applicants do not have the right to appeal the department's decision on the selection of and adoptive home for a particular child.

Specific Authority 120.57, 120.68, ~~409.026(8)~~, 409.145 FS. Law Implemented 120.68, 409.145 FS. History—New 5-20-91, Formerly 10M-8.00514, Amended 4-19-94, 7-18-95, Formerly 10M-8.0054, Amended _____.

(Substantial rewording of Rule 65C-16.009 follows. See Florida Administrative Code for present text.)

65C-16.009 Adoption Placement.

(1) The adoption placement process incorporates the following:

- (a) Selection of the family.
- (b) Presentation of the information to the family regarding the child and to the child regarding the family.
- (c) First meeting.
- (d) Get acquainted period and pre-placement visits.
- (e) Day of placement.

(2) The decision on final placement is based on the child's readiness and the cues given by the child to the counselor that he is ready to move into his new home.

(3) The mechanics of final placement include:

(a) An assessment of the child and family's adjustment during the transition activities, and their readiness for placement.

(b) A decision regarding the appropriate geographical location for placement. Depending on the child's developmental age, the placement may occur in the foster home, the adoptive home, or another location determined suitable by the parties. The child's counselor will be present regardless of the selected location.

(c) An opportunity for the child to say good-bye to each member of the foster family.

(4) When it is necessary for the child to travel to the home of the adoptive parent for placement, the child should be accompanied by the counselor and the person with whom he or she has the most meaningful relationship. If this person is a member of the foster family the department will provide financial reimbursement for any costs incurred.

(5) Occasionally it may be in the child's best interest to be placed in a prospective adoptive applicant's home prior to completion of legal termination of parental rights. Examples of situations where at-risk placement may be appropriate include:

(a) The child's termination of parental rights is on appeal.

(b) The child has been voluntarily surrendered and termination of parental rights by the court is anticipated.

(c) A petition for termination of parental rights has been filed, as it appears unlikely that the child can be returned to the biological parents within a reasonable period of time.

(d) The child must be moved from his or her current foster home placement, and the placement in a pre-adoptive home will result in one less move for the child.

(6) Consideration of a placement under one of the above situations presumes that relatives as placement resources have been considered and found not available or inappropriate. Such placements must only occur with approved adoptive families. These placements must be carefully planned and must have written approval of the district Family Safety Program Office or the appropriate entity with the community based care provider, prior to discussion with the family. The prospective adoptive family must clearly understand the risks involved in such a placement. This is particularly critical if the termination of parental rights is being appealed or if it can be anticipated that the biological family will seek to prevent the severance from occurring. The pre-adoptive family must be given the opportunity to consider the risks and allowed to decide if they are willing to proceed. Families entering into an at-risk placement must indicate in writing that they understand and accept the risks involved.

Specific Authority 39.012, 63.233 FS. Law Implemented 63.022, 63.042, 409.145 FS. History—New 4-28-92, Formerly 10M-8.0058, Amended

(Substantial rewording of Rule 65C-16.010 follows. See Florida Administrative Code for present text.)

65C-16.010 Adoption Placement – Post Placement ~~Supervision~~ Services.

(1) The department has a legal responsibility to provide services until the finalization of an adoption. This period is no less than 90 days from the date the child was placed in the physical custody of the adoptive parent. The first home visit must be made within one week after placement. There shall be a minimum of three supervisory visits in placements which are non-problematic. For placements which do not proceed smoothly, additional and more frequent contacts are necessary. The adoptive child or children must be contacted a minimum of once every calendar month until adoption finalization. The entire family must be seen together at least once during the post placement supervision period.

(2) Some placements are, by nature, complex and will require additional services during the post-placement period. Examples of these placements include:

(a) Sibling placements. Incorporating a large sibling group into an adoptive family is complex due to the number of new relationships this entails. Another difficult situation occurs when one child in a sibling group experiences difficulty in establishing a relationship with the adoptive family and the other child or children appear to be adjusting well. The counselor must decide whether to separate the siblings. Before making a decision to separate siblings, the adoption unit must staff the case as a team. The positives and negatives of keeping the children together must be thoroughly explored and the team must decide what is in the best interest of the children. If it is determined that the removal of only one child is best, arrangements must be made for continuing contact among the children. Refer to Rule 65C-16.002, F.A.C., for criteria to assist in decision making for sibling placements. The decision and the reasons for the decision must be documented in the case file. The file must also include documentation of a plan to assure on-going contact among separated siblings.

(b) Children with severe emotional and behavioral difficulties. Children who required specialized services to maintain stability in their foster home often need the same services in the adoptive home.

(c) Adolescents. Adoption placement of adolescents can be difficult because the developmental task for this age group is to become free of close family ties and establish independence. This can make the task of attaching to an adoptive family challenging and additional services for the family and the adopted youth may be required.

(d) Children placed transracially. Families adopting children of a different race will face challenges specific to this situation. It is important for adoption staff to assist the family

in understanding the importance of race and ethnic heritage and to assist the family in accessing resources to help meet the specific needs of the child who is adopted transracially.

(3) Mental Health Multidisciplinary Team. During the post-placement supervision period, adoptive families may access the services of the Mental Health Multidisciplinary Team. When the services of the team are needed, the adoption counselor should initiate contact with the identified single point of access in the district Alcohol, Drug Abuse and Mental Health Program Office.

(4) Although emotional ties through the parent/child relationship are being established through living together, the legal finalization procedure gives the relationship sanction and protection. Legalization of the adoption assures the child who is adopted the rights and responsibilities of membership in a permanent family.

(a) At the end of the supervisory period, the department adoption supervisor and the counselor, or the appropriate community based provider entity, must make a final assessment of the placement. Before the final adoption hearing, or within 90 days after the adoption petition is filed with the court by the adoptive family, whichever occurs first, a final home evaluation must be completed as directed in s. 63.125, F.S., and a written report on the findings, including a recommendation on the granting of the adoption petition, must be filed with the court. In addition to the requirements of s. 63.125, F.S., the following must be addressed in the written report to the court:

1. A summary of issues discussed in Rule 65C-16.0061, F.A.C., Evaluation of Applicants and Rule 65C-16.007, F.A.C., Abuse Hotline and Criminal Checks.

2. Full discussion and disclosure regarding any unusual circumstances in the adoptive family including health records and findings, and financial problems.

(b) After the post-placement period has been completed, the department supervisor or appropriate community based provider entity, signs the consent to adoption and forwards it to the adoptive parents' attorney. Attached to the consent must be the family medical history containing such information concerning the medical history of the child and birth parents as is available or readily obtainable. This information must be made available to the adopting parents. With the consent and medical history, the attorney can proceed with the filing of the petition for adoption in court. If not previously provided, the adoptive parents must be provided with a copy of the study of the child at this time. If the study contains identifying information about the biological family, that information must be deleted prior to presenting it to the family.

(c) The counselor or community based provider case manager completes the original and two copies of Section A and B of the Certified Statement of Final Decree of Adoption to be used by the Clerk of the Court to obtain the new birth certificate. As soon as the petition is filed, and a copy is routed

to the adoption unit, that unit will forward the Certified Statement to the Clerk of the Court for completion and certification and will notify the attorney that the form has been forwarded.

(d) When a placement disrupts the counselor or community based provider case manager must record a disruption summary, which provides an evaluation and assessment of the reasons for the disruption. In addition to assessing and summarizing the reasons for the disruption, the summary must also assess the impact the failed placement had on the child and issues which must be resolved before another placement can be considered. Any specific attributes which will be necessary in the next adoptive parents must also be included. This summary must be recorded within 10 days after the disruption occurs.

Specific Authority 39.012, 63.233 FS. Law Implemented 63.022, 63.122, 63.152, 63.162(1)(f), 382.015, 382.025, 409.145 FS. History—New 2-14-84, Formerly 10M-8.06, Amended 4-28-92, 4-14-94, 1-8-95, Formerly 10M-8.006, Amended 12-4-97.

65C-16.011 Confidentiality – Human Immunodeficiency Virus (HIV) Infected Clients.

(1) The department or the community based provider agency shall disclose to adopting parents the name of a child who has been tested for HIV and the results of that test when the decision to adopt the child has been confirmed by the adopting parent and the agency. Prior to the confirmation of the decision, the adoptive parents shall be told that the child being considered by them has tested positive for HIV but may ~~cannot~~ be told the child's name until after the decision to place has been made.

(2) The adopting parents who have accepted an HIV infected child into their home must be given a written statement ~~statement in writing~~ which includes the following language: "This information has been disclosed to you from records whose confidentiality is protected by state law. State law prohibits you from making any further disclosure of such information without the specific written consent of the person to whom such information pertains, or as otherwise permitted by state law. A general authorization for the release of medical or other information is NOT sufficient for this purpose."

(3) The adoption record must contain documentation that the written statement was given to the adoptive family.

Specific Authority 389.004(3)(f)11. FS. Law Implemented 381.004(3)(f)11. FS. History—New 5-20-91, Amended 4-19-94, Formerly 10M-8.006, Amended _____.

(Substantial rewording of Rule 65C-16.012 follows. See Florida Administrative Code for present text.)

65C-16.012 Types of Adoption Assistance Subsidies.

(1) The intent of adoption assistance is to promote the adoption of special needs children who are in the department's foster care program or in the care of a licensed private child placing agency. It is the responsibility of the department or the

community based care agency adoption staff to inform prospective adoptive parents of the availability of all of the benefits listed below.

(2) Maintenance Subsidy. A monthly payment may be made for support and maintenance of a special needs child until the child's 18th birthday. Unless approved by the Secretary of the Department pursuant to subsection 65C-16.013(9), F.A.C., the amount of the payment may not exceed the standard foster care board rate for which the child would have been eligible had the adoption placement not taken place. Annual reevaluations of the continued need for subsidy are required.

(3) Medical Subsidy. The cost of medical, surgical, hospital and related services needed as a result of a physical or mental condition of the child which existed prior to the adoption may be subsidized. The need for medical services for a condition recognized prior to adoption must be established and authorized prior to the placement for adoption, although the service might not be delivered until some time after finalization of the adoption. The need for medical subsidy must be supported by documentation of that need from the appropriate professional, such as a licensed physician or dentist, or qualified mental health professional, and must be reassessed annually.

(4) Other Medical Services. Other medical services available may include on-going Medicaid coverage and continuing eligibility with Children's Medical Services for children who were receiving such services prior to adoption.

(5) Reimbursement for Non-recurring Adoption Expenses. Nonrecurring adoption expenses are those reasonable and necessary adoption fees, court costs, attorneys fees, and other expenses that are directly related to the legal adoption of a special needs child.

(6) Adoption Benefit for State Employees. State employees who adopt a dependent child are entitled to financial assistance.

(7) Tuition Waiver. Children who were in the custody of the department and who were adopted after May 5, 1997 are eligible for an exemption of undergraduate college tuition fees at Florida universities or community colleges.

(8) Adoption assistance for eligible children will be paid irrespective of the child's state of residence. Adoptive parents receiving adoption assistance are obligated to notify the department of any change of address.

(9) The provision of all adoption assistance is contingent upon the availability of state and federal funds.

Specific Authority 409.166 FS. Law Implemented 409.166 FS. History—New 2-14-84, Formerly 10M-8.18, 10M-8.018, Amended _____.

(Substantial rewording of Rule 65C-16.013 follows. See Florida Administrative Code for present text.)

65C-16.013 Determination of Maintenance Subsidy Payments.

(1) The purpose of adoption subsidy is to make available to prospective adoptive parents financial aid which could enable them to adopt a special needs child. Every adoptive family must be advised of the availability of adoption subsidy and the purpose for which it is intended. Placement without subsidy must be the placement of choice unless it can be shown that such placement is not in the best interest of the child.

(2) The child's and the family's need for subsidy must be determined prior to placement. When this need is not determined prior to placement, and the adoptive parents feel they have been wrongly denied subsidy benefits on behalf of an adopted child, they have the right to request a fair hearing pursuant to Chapter 120, F.S. If, through the fair hearing process, subsidy is approved, the effective date of the subsidy will be the date the family officially requested subsidy. Retroactive payment dating back to the date of placement will not be approved.

(3) Children with income of less than 200% of the Federal Poverty Level and who reside in Florida may have their subsidies funded with Temporary Assistance for Needy Families (TANF), pursuant to s. 414.045, F.S., and the Title IV-A State Plan. A TANF funded subsidy must be changed to another funding source if the child moves out of Florida. Families receiving TANF funded subsidy must keep the department informed of all changes to the child's income.

(4) Medical or mental health evaluations may be required to document the need for maintenance subsidy. When this is the case, these evaluations must be no more than 12 months old at the time of initial subsidy determination.

(5) Efforts to place the child in a non-subsidized placement must be documented in the child's record. Documentation of this exploration shall be one of the following:

(a) List of other families considered.

(b) Letters to agencies specifically seeking a home for the child.

(c) Registration of the child on the adoption exchange.

It is not the intent of this requirement that a child remain unnecessarily in foster care while the department searches for a non-subsidized placement, if a family who can meet the special needs of the child is available, but requires a subsidy.

(6) The one exception to the requirement to explore placement without subsidy is when it has been determined that the child's adoption by his current caretaker, with whom he/she has established significant emotional ties, is the placement of choice. However, the current caretaker must be asked if he/she will adopt the child without subsidy. This exploration must be documented in the child's record. The caretaker must understand that being an adoptive parent includes different

parental rights and responsibilities. Some of these responsibilities are financial, and adoption subsidy, unlike foster care board rate payments, is not intended to cover the complete cost of the child's care. The maintenance subsidy payment is intended to assist the adoptive parent in supporting the extra costs associated with adopting a child with special needs.

(7) Initial Basic Maintenance Subsidy. The initial determination of the monthly basic maintenance payment will be based on the department's published standard foster care board rates. This initial basic subsidy will be 80% of the standard foster care board rate at the time the payment determination is being made, or, if the child is in medical foster care, 80% of the medical foster care board rate at the time the determination is made. It is important to remember that basic subsidy determination is based on standard board rates, not actual board rates that may have been paid for a particular child.

(8) Supplemental Maintenance Payment. An additional supplemental amount may be added to the child's basic subsidy when a child has a specific and diagnosed physical, mental, emotional, or behavioral problem which requires care, supervision, and structure beyond that ordinarily provided in a family setting. The total of the basic subsidy amount and the supplemental amount may not exceed the standard foster care board rate for which the child was eligible as a foster child, unless an exception is granted by the Secretary as discussed in (9) below. This payment is not intended to cover services which may be obtained through family insurance, Medicaid, Children's Medical Services, medical subsidy, or through special education plans provided by the public school district.

(9) The proposed amount of subsidy, including the supplemental amount must be submitted to the district Family Safety Program Administrator or designee, or the appropriate entity with the community based care provider for approval. Documentation supporting the request for a supplemental payment must be included.

(10) When the Secretary of the Department determines that it is appropriate, an exception may be granted to the policy limiting subsidy to the standard board rate. No adoption subsidy may exceed the actual amount of the foster care board paid for the child. Any request for this policy exception must come in writing to the Secretary from the district or region administrator.

(11) Each authorization for subsidy will be for a period of twelve months, effective on the date of placement, or in the case of adoption by the current caregiver, on the date the placement agreement is signed. There must always be a current adoption assistance agreement signed by the parent and the department's representative. Payments may not be made for any months in which there is no current adoption assistance agreement in place.

(12) The family must be advised that it is their responsibility to notify the department immediately of any change in circumstances, including changes in the child's need for services covered by the supplemental payment.

(13) Maintenance subsidy payment will be terminated when the child reaches 18 years of age or if the parents cease having responsibility for the child or the child is no longer receiving support from the parents.

(14) Subsidy redeterminations. At redetermination the basic monthly maintenance subsidy amount will remain the same as the amount initially determined. If the child is receiving a supplemental payment, the continued need for the supplemental payment will also be determined at this time. A new or updated prognosis will be required to document the continued need for service and support. If the service is no longer required, the supplemental payment must be discontinued. The total adoption assistance agreement must be re-negotiated with the adoptive parent at each scheduled or unscheduled change to the subsidy payment.

(15) No child will have his or her subsidy payment reduced based on application of this rule.

(16) Any child who has been determined eligible for adoption subsidy whose adoption has been dissolved by termination of parental rights or by the death of the adoptive parents will retain his or her original subsidy eligibility if subsequently placed for adoption.

Specific Authority 409.166(7), 409.026(8), 409.031 FS. Law Implemented 409.031, 409.166 FS. History--New 2-14-84, Formerly 10M-8.20, Amended 5-20-91, 4-19-94, Formerly 10M-8.020, Amended _____.

(Substantial rewording of Rule 65C-16.013 follows. See Florida Administrative Code for present text.)

65C-16.014 Determination of Medical Subsidy.

(1) The department may pay the adopting parents a subsidy for medical, surgical, hospital and related services needed as a result of a physical or mental condition of the child which existed prior to the adoption. The need for medical subsidy must be established and authorized prior to the adoption placement, although the service might not actually be needed until a later date. When this need is not established prior to placement and the adoptive parents feel they have been wrongly denied subsidy benefits on behalf of an adopted child, they have the right to request a fair hearing. If, through the fair hearing process, subsidy is approved, the effective date of the subsidy will be the date the family officially requested subsidy. Retroactive payment dating back to the date of placement will not be approved.

(2) Medical subsidy must be terminated when the condition for which it was granted no longer exists or on the child's 18th birthday, whichever occurs first. Children needing residential mental health services will be referred to the district's Alcohol, Drug Abuse and Mental Health Program Office, children's program for services.

(3) The medical subsidy is not to include those costs which can be or are covered by the adopting family's medical insurance, Children's Medical Services, Children's Mental Health Services, Medicaid or local school districts.

(4) The adoptive parents must obtain the approval of the department or the community based care provider agency prior to planning for the use of medical subsidy funds. The adoptive parents must submit a copy of the bill for the service to the department or to the community based care provider agency to initiate reimbursement. The bill must be clearly legible and must specify the name of the child, the service rendered and the date of the service, in addition to the charge for the service.

Specific Authority 409.166 FS. Law Implemented 409.166 FS. History--New 2-14-84, Formerly 10M-8.21, 10M-8.021, Amended _____.

(Substantial rewording of Rule 65C-16.015 follows. See Florida Administrative Code for present text.)

65C-16.015 Non-Recurring Adoption Expenses.

(1) Under any adoption assistance agreement with adoptive parents of a special needs child, the state is required to make payments to the adoptive parents for non-recurring, one time, expenses incurred in connection with adoption of the special needs child. Nonrecurring adoption expenses are those reasonable and necessary adoption fees, court costs, attorney fees, and other expenses which are directly related to the legal adoption of the special needs child. Such costs may include expenditures for physical and psychological examinations of the adoptive parents required as a part of the adoption process as well as transportation, lodging and food for the child or adoptive parents when necessary to complete the placement or adoption process.

(2) Agency adoption fees must be waived for families adopting children who are in custody of the department for whom subsidies will be paid. Such fees need not be waived for families adopting children who are in the custody of licensed child-placing agencies. If these children are otherwise eligible, agency fees shall be counted as allowable expense under non-recurring adoption expenses. It is not necessary that the family be receiving a money payment to be eligible for this program.

(3) The maximum payment allowable under this program is \$1,000 per adoption placement. In cases where siblings are placed and adopted either separately or as a unit, each child is treated as an individual with separate reimbursement for nonrecurring expenses up to the maximum amount of \$1,000 per child.

(4) There can be no income eligibility requirements for adoptive parents in determining whether payments for non-recurring expenses of adoption will be made.

(5) Parents cannot be reimbursed for out-of-pocket expenses for which they have been otherwise reimbursed.

(6) Except where it would be contrary to the best interest of the child, a reasonable but unsuccessful effort must be made to place the child without adoption assistance prior to reimbursement for non-recurring adoption expenses.

(7) The following procedures will initiate payments for reimbursement of nonrecurring adoption expenses.

(a) All adoptive parents of special needs children will be advised of the availability of nonrecurring expense reimbursement.

(b) Reimbursement for eligible costs may be made to the adoptive parent or directly to a vendor. All parents will be advised to keep copies of receipts of expenditures related to the adoption. Copies of such receipts must be available in the subsidy record. Eligible expenses include court costs, attorney fees, birth certificates, costs of required physicals and psychological examinations, costs of transportation, lodging and food for the child and/or adoptive parents when necessary to complete the adoption process, and the cost of the homestudy if the child is in the custody of a private agency.

(c) When a placement decision has been made, the adoption assistance agreement will be negotiated with the family and will include a statement of the projected cost to be reimbursed for nonrecurring adoption expenses, as well as proposed maintenance and medical subsidy amounts if appropriate.

(d) Payments for nonrecurring expenses can be made up to two years following the finalization of the adoption. However, every effort should be made to complete these transactions within three months following adoption finalization.

Specific Authority 409.301, 409.166 FS. Law Implemented 409.166, 409.301 FS. History—New 5-20-91, Amended 4-19-94, 7-18-95, Formerly 10M-8.0054, Amended _____.

(Substantial rewording of Rule 65C-16.016 follows. See Florida Administrative Code for present text.)

65C-16.016 Access to Closed Adoption Records.

(1) The confidentiality of adoption records, original birth records, and court files is protected by sealing them upon adoption finalization. Persons seeking information from those records will be referred to the headquarters Office of Family Safety for assistance. Florida law requires non-identifying information to be released to adoptive parents and adult adoptees but does not allow access to the record by other parties.

(2) Requests for information from closed adoption records must be written, and no information will be released by telephone. Because records must be indexed by names of the adoptive parents, that information must be included in the letter requesting release of information as well as some form of identification such as a photocopy of the client's driver's license or birth certificate.

(3) In order to respond to written requests from adoptive parents or adult adoptees for non-identifying information, the department or the community based care provider agency must be able to access the adoption records and other records which concern the adoptee. The department or community based care provider agency shall retain as confidential all records relating to each child who became adopted through the department's adoption program. These confidential records shall be referred to as department closed adoption records and shall be retained in the district/region or in the community based care provider agency until called for by the headquarters Office of Family Safety for permanent storage.

(4) The department will assume responsibilities for the closed adoption records of private licensed child placing agencies in Florida who cease to operate.

Specific Authority 63.162, 63.233 FS. Law Implemented 63.162, 63.233 FS. History—New 5-20-91, Amended 4-28-92, 4-19-94, Formerly 10M-8.024, Amended _____.

65C-16.017 Florida Adoption Reunion Registry.

(1) The state registry of adoption information created in s. 63.165, F.S., is also known as the Florida Adoption Reunion Registry. The purpose of the registry is to reunite adult adopted persons with members of their family without either party having to take court action to accomplish this goal. The department shall retain and maintain the registry records on a permanent basis. The registry shall be open with respect to all adoptions in the state, regardless of when they took place. The registry shall be available for those persons choosing to enter information, but no one shall be required to do so.

(2) The department operates the state-wide registry for persons who have come forward to voluntarily register information about themselves for release to specified other parties to that adoption. The registry is the mechanism whereby individuals from families separated by adoption may be reunited should each party seek that reunion. All birth and adoptive parents who are parties to an adoption shall be advised of registry services prior to adoption finalization.

(3) Procedures for Registration.

(a) Any person may register by completing and submitting the application for registry services, indicating to whom they consent to release identifying information about themselves.

(b) Persons to whom identifying information may be released are limited by section 63.165, F.S., to the following:

1. Adoptee.
2. Birth father.
3. Birth mother.
4. Adoptive mother.
5. Adoptive father.
6. Birth siblings.
7. Maternal birth grandparents of the adoptee.
8. Paternal birth grandparents of the adoptee.

(4) Adoptee birth data will be verified by registry staff, with the assistance of the Vital Records section of the Office of Vital Statistics in the Department of Health. In cases where birth information cannot be verified and registration is not possible, applicants will be notified of data used as a basis for search and given opportunity to correct or change that data for resubmission. Should verification of the birth information still not be possible, no further attempts will be made to process that application. If the applicant desires to submit new or different information, a new application and accompanying fee must be submitted.

(5) Original applications, signed by registrants, will be placed on file permanently.

(6) Updating of Registry Information.

(a) Any registrant may change the name, address or telephone number associated with their registration, may limit or restrict their consent to release information, or may completely withdraw from the registry at any time.

(b) Responsibility for update rests with registrants and only the most current information on file will be disclosed to designated recipients upon their completion of registration procedures.

(7) All registry documents containing identifying information shall be handled and stored in accordance with procedures for the handling of confidential information.

(8) The department will offer counseling services to registrants at the time of registration. Counseling, as specified in s. 63.165(2), F.S., consists of professional advice provided by the department, by counselors employed by the department, by agencies licensed by the State of Florida to provide adoption services, or by other persons who have adoption training or experience.

(9) Fee for Service.

(a) The registry shall establish a fee for initial filing of identifying information with the registry. This fee shall be submitted in the form of a money order, bank draft, or personal check by the registrant and shall be deposited in a trust account specified by the department. These fees shall be used to defray the direct and indirect costs of operating the registry.

(b) The registry shall establish a fee for updating information previously filed or for changing, limiting or withdrawing consent to release identifying information. These fees shall be deposited in a trust fund specified by the department. These fees shall be used to defray the direct and indirect costs of operating the registry.

(c) Receipts will be mailed to registrants to acknowledge the processing of fees. Accompanying letters of acknowledgement will state the status of the applicant's registration.

(d) Fees are collected to offset costs of researching birth information, processing applications, and providing staff to service client information and other requests. When an

application has been accepted by the registry for processing, fees will be deposited and will not be returned to the applicants, even if registration proves to be impossible.

(e) Fees for counseling services shall be set and collected by the department, licensed agency, or other professional who provides the service.

(f) The department shall waive fees in cases where need and hardship can be documented. Acceptable documentation of hardship includes verification that applicant is receiving unemployment benefits, public assistance, social security income or food stamps.

(10) Applications for Registry Services, and applications to change or update information are available upon request.

Specific Authority 63.162, 63.233, 382.003(10) FS. Law Implemented 63.162, 63.165, 63.233 FS. History—New.

Section II Proposed Rules

DEPARTMENT OF STATE

Division of Library and Information Services

RULE TITLE:

Electronic Recordkeeping

RULE NO.:

1B-26.003

PURPOSE AND EFFECT: The purpose of this amendment is to update guidelines for managing public records created or maintained in electronic form. Updated guidelines reflect current technologies and best practices in managing electronic records and ensuring their retention and accessibility in accordance with public records provisions of Florida Statutes, Chapter 119.

SUMMARY: The primary changes in the proposed revision are a reorganization of some subsections and updating of the language and some technical requirements. Below is a summary of the changes to the revised rule.

Subsection (1) Purpose. – Changed terminology here and throughout the rule to refer to “record (master) copies”. This change is consistent with the definitions in Chapter 1B-24, FAC. Removed reference to “records which have a retention value of more than ten years.”; Subsection (2) Authority. – Changed a statutory citation.; Subsection (3) Scope. – Expanded the applicability of the rule to include analog, as well as digital, records. Removed references to “long term and permanent electronic records” and “records which have a retention period of ten years or less.”; Subsection (4) Intent. – Provided that existing recordkeeping systems may be used, even if those systems are not in compliance with the rule, until they are replaced or upgraded.; Subsection (5) Definitions. – Added a definition for “electronic recordkeeping system”, and removed the definition of “electronic records system.” Deleted the definition for “information system.” Defined “record (master) copy.” Added definitions for “geographic information system” and “open format.”; Subsection (6) Agency duties and