

## Section I Notices of Development of Proposed Rules and Negotiated Rulemaking

### DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES

#### Division of Aquaculture

RULE CHAPTER TITLE:                      RULE CHAPTER NO.:

Comprehensive Shellfish Control Code                      5L-1

RULE TITLES:                                      RULE NOS.:

Shellfish Harvesting Area Standards                      5L-1.003

Container Identification, Terminal Sale Date; Prohibitions                      5L-1.007

Laboratory Procedures and Sample Testing                      5L-1.019

**PURPOSE AND EFFECT:** These amendments propose to reclassify the Pensacola Bay System shellfish harvesting area in Escambia and Santa Rosa Counties, the North Bay shellfish harvesting area in Bay County, the Indian Lagoon shellfish harvesting area in Gulf County, the Ochlockonee Bay shellfish harvesting area in Franklin and Wakulla Counties, and the Wakulla County shellfish harvesting area in Wakulla County. Sanitary surveys have been conducted that evaluate current information on pollution sources and bacteriological water quality, and recommend reclassification of the Pensacola Bay System, North Bay, Indian Lagoon, Ochlockonee, and Wakulla County shellfish harvesting areas. Additionally, the four-digit area codes used on shellfish tags will be updated to identify the locations of where shellfish are harvested in the Pensacola Bay System, North Bay, Indian Lagoon, Ochlockonee, and Wakulla County shellfish harvesting areas.

These amendments also propose to incorporate the option to analyze water samples using the membrane filter method as recently adopted by the ISSC, to require consumer information statement labeling for all shellfish species, and to adjust the Apalachicola Bay System shellfish harvesting area map and legal description to reflect replacement of the Bryant Patton Bridge.

**SUBJECT AREA TO BE ADDRESSED:** The proposed reclassification and management of the Pensacola Bay System, North Bay, Indian Lagoon, Ochlockonee, and Wakulla County shellfish harvesting areas for shellfish harvesting is in accordance with 5L-1.003 to protect the health of shellfish consumers and to provide access to renewable and natural shellfish resources. If an illness outbreak occurs, the updated four-digit harvest area codes will provide for tracing of the shellfish back to where the shellfish were harvested.

**SPECIFIC AUTHORITY:** 597.020 FS.

**LAW IMPLEMENTED:** 597.020, 597.010(15), 597.010(19) FS.

A RULE DEVELOPMENT WORKSHOP WILL BE HELD FOR THE PROPOSED RECLASSIFICATION OF THE INDIAN LAGOON SHELLFISH HARVESTING AREA AT THE TIME, DATE AND PLACE SHOWN BELOW:

**TIME AND DATE:** 9:30 a.m. – 11:30 a.m., Monday, March 8, 2004

**PLACE:** Apalachicola National Estuarine Research Reserve Facility, 261 7th Street, Apalachicola, Florida

A RULE DEVELOPMENT WORKSHOP WILL BE HELD FOR THE PROPOSED RECLASSIFICATION OF THE OCHLOCKONEE BAY AND WAKULLA SHELLFISH HARVESTING AREAS AT THE TIME, DATE AND PLACE SHOWN BELOW:

**TIME AND DATE:** 6:30 p.m. – 8:30 p.m., Tuesday, March 9, 2004

**PLACE:** The Landing – Restaurant, 1160 Coastal Highway, Panacea, Florida

A RULE DEVELOPMENT WORKSHOP WILL BE HELD FOR THE PROPOSED RECLASSIFICATION OF THE NORTH BAY SHELLFISH HARVESTING AREA AT THE TIME, DATE AND PLACE SHOWN BELOW:

**TIME AND DATE:** 5:30 p.m. – 7:30 p.m., Wednesday, March 10, 2004

**PLACE:** Gulf Coast Community College, 5230 West U.S. Highway 98, Student Union East Building, 2nd Floor, Room 244, Panama City, Florida

A RULE DEVELOPMENT WORKSHOP WILL BE HELD FOR THE PROPOSED RECLASSIFICATION OF THE PENSACOLA BAY SYSTEM SHELLFISH HARVESTING AREA AT THE TIME, DATE AND PLACE SHOWN BELOW:

**TIME AND DATE:** 5:30 p.m. – 7:30 p.m., Thursday, March 11, 2004

**PLACE:** Pensacola Junior College, Milton Campus, 5988 Highway 90, Building 4900, Room 4902, Milton, Florida

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT, IF AVAILABLE, IS: John McDowell, Division of Aquaculture, 1203 Governors Square Boulevard, 5th Floor, Tallahassee, Florida 32301, (850)488-5471

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

### DEPARTMENT OF COMMUNITY AFFAIRS

#### Florida Building Commission

RULE TITLE:                                      RULE NO.:

State Building Code Adopted                      9B-3.047

**PURPOSE AND EFFECT:** To accomplish the tri-annual update of the Florida Building Code including integration of the 2003 International Code Council family of model codes,

2001 Florida Model Building Code, adopted statewide and local technical amendments and the updated Florida Fire Prevention Code.

SUBJECT AREA TO BE ADDRESSED: The Florida Building Codes.

SPECIFIC AUTHORITY: 553.73(1),(2),(7) FS.

LAW IMPLEMENTED: 553.72, 553.73(2),(3),(9) FS.

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

TIMES AND DATES: 4:00 p.m., March 1, 2004; 10:00 a.m., March 2, 2004

PLACE: Rosen Plaza Hotel, 9700 International Drive, Orlando, Florida

Any person requiring special accommodations at the workshop because of a disability of 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 prior to the date of the workshop using the Florida Dual Party Relay System, 1(800)955-8770 (Voice) or 1(800)955-9771 (TDD).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT, IF AVAILABLE, IS: Ila Jones, Community Program Administrator, Department of Community Affairs, 2555 Shumard Oak Boulevard, Sadowski Building, Tallahassee, Florida 32399-2100, (850)487-1824

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

**DEPARTMENT OF TRANSPORTATION**

RULE CHAPTER TITLE: Outdoor Advertising Sign Regulation and Highway Beautification  
RULE CHAPTER NO.: 14-10

RULE TITLE: Permits  
RULE NO.: 14-10.004

PURPOSE AND EFFECT: Rule 14-10.004 is being amended to incorporate by reference a revised Form 575-070-04, Application for Outdoor Advertising Permit.

SUBJECT AREA TO BE ADDRESSED: Form 575-070-04, Application for Outdoor Advertising Permit, is being revised.

SPECIFIC AUTHORITY: 334.044(2), 479.02(7) FS.

LAW IMPLEMENTED: 334.044(28), 339.05, 479.01(14), 479.02, 479.07, 479.106(5), 479.24 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 IS: James C. Myers, Clerk of Agency Proceedings, Florida Department of Transportation, Office of the General Counsel, 605 Suwannee Street, Mail Station 58, Tallahassee, Florida 32399-0458

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

14-10.004 Permits.

(1) An application for a new sign permit is made by completing and submitting an Application for Outdoor Advertising Permit, Form 575-070-04, Rev. ~~01/04~~ ~~08/03~~, incorporated herein by reference, to the address listed in subsection 14-10.003(2), F.A.C. Applications may be obtained from the State Outdoor Advertising License and Permit Office.

(a) through (e) No change.

(f) For purposes of (c), above, when a valid permit is being conditionally canceled pursuant to subsection 14-10.004(9), F.A.C., the Outdoor Advertising Permit Cancellation Certification, Form 575-070-12, Rev. 07/01, incorporated herein by reference, and Application for Outdoor Advertising Permit, Form 575-070-04, Rev. ~~01/04~~ ~~08/03~~, must be submitted simultaneously to the Department. Form 575-070-12 may be obtained from the address listed in subsection 14-10.003(2), F.A.C. The date the Department receives the cancellation and complete application documents shall be considered the date the application is received.

(g) through (2) No change.

(3) Notwithstanding any other provisions of this rule chapter, an outdoor advertising sign existing at a location which previously was not subject to the permitting requirements of this chapter, but which has become subject to the requirements of this chapter due to changes in the jurisdictional designation of highways, shall be granted a state permit in accordance with the process outlined below:

(a) through (c) No change.

(d) The Department shall issue an Outdoor Advertising Permit, Form 575-070-30, Rev. 07/01, to the sign owner upon receipt of a complete Application for Outdoor Advertising Permit, Form 575-070-04, Rev. ~~01/04~~ ~~08/03~~, together with all items required by Section 479.07(3)(b), Florida Statutes. For existing signs, the written statement required by Section 479.07(3)(b), Florida Statutes, shall be any written document from the appropriate local governmental official indicating compliance with local requirements as of the date of the permit application. A previously issued building permit shall be accepted as the statement from an appropriate local governmental official, except in cases where the local government has provided notice to the sign owner that the sign is illegal or has undertaken action to cause the sign to be removed. When a building permit is submitted as the statement of the local government, the applicant shall certify in writing

that the local government has not provided notice that the sign is illegal, and that the local government has taken no action to cause the sign to be removed.

(4) through (12) No change.

Specific Authority 334.044(2), 479.02(7) FS. Law Implemented 215.34, 334.044(28), 339.05, 479.01(14), 479.02, 479.04, 479.07, 479.106(5), 479.24 FS. History--(Formerly part of Rule 14-10.04, Permits; 14-15.05, Right of Way Bureau Operating Procedures), New 3-28-76, Amended 4-21-77, 12-10-77, 6-26-78, 12-31-78, 1-1-86, Formerly 14-10.04, Amended 7-7-92, 6-28-98, 8-10-99, 8-19-01, 1-25-04, \_\_\_\_\_.

**DEPARTMENT OF TRANSPORTATION**

RULE CHAPTER TITLE:                      RULE CHAPTER NO.:

511 Traveler Information                      14-111  
Phone Services

RULE TITLE:                                      RULE NO.:

511 Traveler Information                      14-111.001  
Phone Services

PURPOSE AND EFFECT: The new rule is being promulgated in accordance with Section 334.60, Florida Statutes, to provide for the uniform administration by the Department in the coordination of 511 traveler information phone services in the state.

SUBJECT AREA TO BE ADDRESSED: This is a new rule covering the implementation of 511 traveler services with the Department of Transportation serving as the state's lead agency and point of contact.

SPECIFIC AUTHORITY: 334.60 FS.

LAW IMPLEMENTED: 334.03, 334.044, 334.60 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 IS: James C. Myers, Clerk of Agency Proceedings, Florida Department of Transportation, Office of the General Counsel, 605 Suwannee Street, Mail Station 58, Tallahassee, Florida 32399-0458

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

14-111.001 511 Traveler Information Phone Services.

(1) Definitions.

(a) "Department" means the Florida Department of Transportation.

(b) "Governmental Entity" means as defined in Section 11.45, Florida Statutes.

(2) The 511 dialing code is reserved for the provision of traveler information. The 511 dialing code may not be used for any other purpose.

(3) Any person or entity, whether private or governmental, prior to providing 511 services anywhere within the state, shall notify the ITS Office of the Department, 605 Suwannee Street,

MS 90, Tallahassee, Florida 32399-0450, in writing, and negotiate with the Department for the authorization to implement 511 services. No person or entity may implement 511 services in the state, directly or through a governmental entity, without the Department's written authorization.

(4) The provision of 511 services shall be in accordance with the *Implementation and Operational Guidelines for 511 Services, Version 2.0, September 2003*, published by the 511 Deployment Coalition; the Federal Communications Commission's Third Report and Order, CC Docket No. 92-105, NSD-L-99-24, adopted July 21, 2000; and the Department's Statewide 511 Services Conceptual Plan, issued 2004; incorporated herein by reference. All agreements entered with 511 service providers shall comply with the requirements of this rule chapter. The plan is available at: <http://www11.myflorida.com/IntelligentTransportationSystems/>.

(5) Any governmental entity authorized to disseminate traveler information through the use of the 511 dialing code may not license or transfer the authority to any person or entity without the written consent of the Department. The governmental entity shall be responsible for all costs to implement the 511 services, including tariff or other charges assessed by its provider of 511 services.

(6) At no time shall the authorized use of the 511 number or dialing code imply any ownership of the number or dialing code by a provider of 511 services, whether by a private or governmental entity.

Specific Authority 334.60 FS. Law Implemented 334.03, 334.044, 334.60 FS. History--New \_\_\_\_\_.

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

Pursuant to Chapter 2003-145, Laws of Florida, all notices for the Board of Trustees of the Internal Improvement Trust Fund are published on the Internet at the Department of Environmental Protection's home page at <http://www.dep.state.fl.us/> under the link or button titled "Official Notices."

**DEPARTMENT OF CORRECTIONS**

RULE TITLE:                                      RULE NO.:

Correctional Probation Officers                      33-302.104  
Carrying Firearms

PURPOSE AND EFFECT: The purpose and effect of the proposed rule is to simplify and streamline the rule by removal of obsolete and unnecessary language, to allow for the carrying of 9mm semi-automatic firearms, and to remove the requirement that weapons be carried concealed.

SUBJECT AREA TO BE ADDRESSED: Correctional Probation Officers carrying firearms on duty.

SPECIFIC AUTHORITY: 20.315, 790.06, 944.09 FS.

LAW IMPLEMENTED: 20.315, 790.06, 944.09 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:

33-302.104 Correctional Probation Officers Carrying Firearms.

- (1) No change.
- (2) Definitions.

(a) ~~“Concealed firearm” means a firearm carried on or about a person in such a manner as to conceal the firearm from the ordinary sight of another person.~~

(b) through (c) renumbered (a) through (b) No change.

~~(c)(d) “Firearm card” means the document issued by the department pursuant to this rule to a correctional probation officer who has been authorized by the department to carry a firearm while on duty. Form DC3-223, Firearms Qualification and Authorization, shall be used for this propose. Form DC3-223 is hereby incorporated by reference. A copy of this form may be obtained from Department of Corrections, Forms Control Administrator, Office of the General Counsel, 2601 Blair Stone Road, Tallahassee, Florida 32399-2500. The effective date of this form is August 13, 2003.~~

~~(e) “Deadly force” means force that is likely to cause death or great bodily harm and includes firing a firearm in the direction of a person or occupied vehicle.~~

~~(d)(f) Reviewing authority, for the purpose of this rule, refers to staff who are authorized to review and approve requests to carry firearms, issue firearm cards ~~Firearm Qualification and Authorization, DC3-223~~, maintain lists of staff under their supervision who have been authorized to carry a firearm, and permanently remove or temporarily suspend authorization for staff to carry a firearm.~~

- 1. through 3. No change.
- (3) Authorization Procedures.
- (a) No change.

(b) Any correctional probation officer who elects to carry a firearm while on duty shall obtain ~~complete Form DC3-226, Request for Authorization to Carry a Firearm on Duty, and submit it for such authorization through the circuit administrator. Form DC3-226, Request for Authorization to Carry a Firearm on Duty, 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 March 4, 2001.~~ Any circuit administrator or deputy regional director of probation and parole who elects to carry a firearm while on duty shall obtain authorization from ~~make application utilizing Form DC3-226 to the regional director of probation and parole.~~ A regional director of probation and parole who elects to carry a firearm while on duty shall obtain authorization from ~~make application utilizing Form DC3-226 to the director of community operations.~~ The written request application shall contain documentation that the individual has complied with the training and qualification requirements set forth in paragraph (c) below. ~~The application shall also contain a statement that the officer has read and understands Rule 33-302.104 and 33-209.103, F.A.C.~~

(c) Correctional probation officers who elect to carry a firearms while on duty shall complete training and qualification requirements pursuant to Rule 33-209.103, F.A.C. Correctional probation officers shall not be allowed to carry a firearm on duty until firearms qualification is successfully completed and the firearm card ~~Firearms Qualification and Authorization, Form DC3-223~~, has been issued. Qualification, re-qualification and training shall be completed using the specific weapon that the officer will be using on duty and any type of ammunition approved by the local training center. Documentation of the model, make, and serial number of the weapon used, proof of ownership, and firearm inspection by a certified gunsmith or law enforcement armorer shall be submitted ~~on the Firearm Inspection/Repair Certificate, Form DC3-240~~, along with the documentation of training and qualification in the request application for authority to carry the firearm. A receipt of purchase or affidavit of ownership for the weapon shall also be provided. ~~Form DC3-240 is hereby incorporated by reference. A copy of the form is 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 March 4, 2001.~~

(d) If an officer temporarily or permanently replaces the firearm used for qualification, the officer shall notify the department of the replacement and provide the model, make and serial number of the replacement firearm. If the officer chooses to replace a revolver with a 9 millimeter semi-automatic firearm, the officer shall complete the department-approved 9mm transition course. The officer shall re-qualify with the replacement weapon and provide proof of ownership and inspection submit a Firearms Inspection/Repair Certificate, Form DC3-240, and Firearms Re-qualification Certificate, Form DC3-241, for the replacement firearm to the reviewing authority. Correctional probation officers shall not be authorized to carry more than one firearm at a time. ~~Form DC3-241 is hereby incorporated by reference. A copy of the form is 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 March 4, 2001.~~

(e) ~~Prior to approving a request to carry a firearm, the reviewing authority shall~~ Upon review of the request application, the documentation of training and qualification pursuant to Rule 33-209.103, F.A.C., and shall complete after completing a Florida Crime Information Center/National Crime Information Center (FCIC/NCIC) check on the firearm by serial number, and an FCIC/NCIC check ~~has been completed on the applicant, to determine if there is a domestic violence injunction that would disqualify the applicant from possessing a firearm if convicted of domestic violence, the reviewing authority shall approve the request within 10 working days and~~ Upon approval, the reviewing authority shall issue a firearm card Firearms Qualification and Authorization Card, Form DC3-223, which establishes that the officer has been authorized to carry a firearm. Each reviewing authority shall maintain a list of all staff under their supervision who have been authorized to carry firearms. Form DC3-224, Firearm Authorization List, will be used for this purpose. Form DC3-224 is hereby incorporated by reference. A copy of this form may be obtained 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 March 4, 2001. A copy of the application (Form DC3-226), documentation of qualification (Form DC3-240), firearms authorization card (Form DC3-223), and receipt or affidavit of ownership shall be placed in the employee's personnel file. Subsequent re-qualification documentation (Form DC3-241) will also be placed in the employee's personnel file.

(f) The firearms authorization card, Form DC3-223, shall expire the following year, on the last day of the month the firearms card was issued unless written documentation of re-qualification is submitted to the authorizing entity prior to the expiration of the firearms card. The officer shall be required to successfully re-qualify each year thereafter pursuant to Rule 33-209.103, F.A.C., and this rule in order to remain qualified to carry a firearm. ~~All correctional probation officers shall be provided the opportunity to prepare for annual firearms re-qualification by participating in firearms pre-qualification training if requested. A correctional probation officer who declines the opportunity to participate in firearms pre-qualification training shall sign a statement indicating that the opportunity was provided and was declined. Form DC2-902, Refusal of Firearms Pre-qualification Training, shall be used for this purpose. Form DC2-902 is incorporated by reference in Rule 33-209.103, F.A.C.~~

(g) Re-qualification must occur prior to the employee's firearm card expiration date. ~~Upon re-qualification, the firearms instructor will complete the Firearm Re-qualification Certificate, Form DC3-241, with the re-qualification score, and will sign the form as the trainer. The officer will certify that the firearm referenced on this form is the firearm used in the course of his or her duties and that he or she uses only authorized ammunition, and shall return the form to the~~

~~reviewing authority for issuance of a new Firearms Qualification and Authorization Card, Form DC3-223. An FCIC/NCIC check shall be conducted during the re-qualification process. The new firearm card will be issued effective the date of re-qualification. The firearm card DC3-223 will expire the following year, on the last day of the month the firearms card was issued.~~

(h) No change.

(i) ~~A correctional probation officer who fails to complete firearm pre-qualification after remedial training has been provided, and who wishes to renew authorization to carry a firearm, must re-attend and successfully complete the department approved basic correctional probation officer firearm course.~~

(j) ~~A correctional probation officer who does not re-qualify prior to the date of expiration of the firearm card shall not be permitted to carry a firearm while on duty, except for firearm training purposes and must surrender the firearms card immediately to the range master. The range master or designee shall retain the firearms card from any officer failing to meet minimum qualification standards and notify the circuit administrator via interoffice memorandum or e-mail advising that the officer will be scheduled for remedial training. The officer shall have one year from the date the firearm card expired to successfully re-qualify to continue to carry a firearm. If the officer successfully re-qualifies, after the card expires, a new firearm card will be issued with an expiration date the following year, on the last day of the month the firearms card was issued. If the officer does not successfully re-qualify within that year, the officer will be required to re-attend and successfully complete the department approved correctional probation officer basic firearms training courses. The department shall pay for the pre-qualification training, the firearms re-qualification, any remedial training, and any subsequent qualification attempt if required.~~

~~(i)(k)~~ The officer shall immediately notify his or her immediate supervisor in the case of theft or loss of the authorized firearm. The officer shall notify local law enforcement agencies and the Florida Department of Law Enforcement in writing of the theft or loss and provide a copy to the supervisor to ensure the notification has been made as required. A Community Corrections Incident Report, Form DC3-225, shall be prepared by the officer any time a loss or theft occurs and shall be submitted to his or her immediate supervisor within 24 hours. The supervisor shall forward Form DC3-225 to the circuit administrator, who shall complete a MINS report. Form DC3-225 is incorporated by reference in Rule 33-302.105, F.A.C.

(4) Carrying a Firearm While on Duty.

(a) The firearm shall be carried by the officer only while conducting field supervision and investigation. The firearm shall be carried ~~remain concealed out of the ordinary sight of another person~~ in a holster about the waist or under the

shoulder or in a purse or handbag or in a “fanny pack” fastened around the waist. All holsters that secure the firearm about the waist or under the shoulder shall be of a type which secures the firearm with a thumb break retainer. “Fanny packs” and purses or handbags shall have an internal holster with or without a thumb break retainer and shall have a snapped, zippered or velcroed enclosure concealing the firearm. Only the authorized firearm may be carried.

(b) No change.

(c) Each probation office shall have a designated secure space containing a secure locker for storage of firearms, ammunition, and reloading devices. Officers shall place their holstered firearms in the secure locker immediately upon entering the office. ~~It is not necessary for the officer to remove the firearm from the locker for those occasions when the officer leaves the office for personal time or when the firearm is not desired.~~ The firearm shall be removed from the locker at the conclusion of the duty day. No firearm shall be left in the probation office overnight.

(d) Any officer authorized to carry a firearm while on duty shall carry a Department of Corrections identification card and firearm authorization card while carrying the firearm on duty. ~~The officer may display the Department of Corrections issued badge on a belt or harness strap which shall remain concealed unless the firearm is visible or drawn from the holster.~~

(5) No change.

(6) Firearm Type and Ammunition.

(a) Correctional probation officers authorized to carry a firearm shall only be authorized to carry a five or six shot revolver of .38 or .357 caliber with a barrel length not to exceed four inches, or a 9 millimeter semi-automatic pistol, with the exception of weapons specified in Federal Firearms Regulations, 921(a)(30), as semi-automatic assault weapons.

(b) Correctional probation officers shall only be authorized to carry ~~38 special~~ ammunition approved by the department for each respective weapon at standard velocity or plus p velocities with either a 125 to 158 grain semi-wad cutter hollow point or jacketed hollow point. The plus p rated ammunition shall not be authorized unless the firearm is rated for that type of ammunition. All ammunition ~~shall be factory manufactured except ammunition used for training, qualification, or re-qualification, which must be approved by the range facility for use. It shall be the correctional probation officer's responsibility to ensure that the ammunition used in his or her firearm complies with department guidelines as provided in this rule.~~

(c) Correctional probation officers are authorized to carry department approved reloading devices ~~speed loaders or speed strips~~ while carrying a firearm. These reloading devices and all accompanying ammunition shall be stored in the same secure locker as the officer's firearm immediately upon entering the

office. Only that ammunition stored in a firearm or reloading device ~~speed loader, or speed strip~~ may be brought into an office.

(7) Use of Firearm. For the purposes of this rule, “use of a firearm” means to discharge a firearm or to have a firearm readily accessible for immediate discharge, i.e., loaded and in a person's hand.

(a) In accordance with firearms training, the firearm is to remain in a holster or holstered in a purse or fanny pack ~~and concealed from the sight of another person~~ at all times except:

1. through 4. No change.

(b) If the firearm is drawn while the correctional probation officer is on duty, the officer shall clearly and loudly identify himself or herself as a state probation officer.

~~(c)(b) In accordance with firearms training, correctional probation officers are authorized to use deadly force only after all other reasonable efforts to avoid confrontation have been exhausted, including retreat, use of handcuffs to restrain the offender, use of defensive tactics or chemical agents.~~ Effective December 1, 2000, all officers authorized to carry firearms must be certified to carry chemical agents per Rule 33-302.105, F.A.C., and must carry chemical agents while carrying firearms. Effective August 13, 2003, all officers authorized to carry firearms must complete handcuff training requirements provided by the department and must carry department issued handcuffs on his or her person while carrying a firearm.

(c) through (d) renumbered (d) through (e) No change.

(8) Procedures Following Use of Firearm.

~~(a)~~ Except during authorized training, when a correctional probation officer displays or discharges a firearm, the officer shall report the incident to his or her immediate supervisor and route all necessary paperwork as required by Rule 33-302.105, F.A.C.

~~(b) An officer who caused death or injury through use of deadly force shall be given an opportunity to participate in the employee assistance program. Costs of counseling above those covered by insurance shall be borne by the state.~~

(9) Removal of Authorization to Carry a Firearm.

~~(a)~~ The reviewing authority shall permanently remove or temporarily suspend the authorization to carry a firearm for a correctional probation officer if:

1. through 5. renumbered (a) through (e) No change.

(10) Care and Maintenance of Firearm.

(a) through (b) No change.

(c) If an officer finds that his or her firearm needs repair, it shall not be carried or used for any reason. The officer shall advise his or her immediate supervisor of its condition ~~using Form DC3-240~~ and shall make arrangements to have it repaired. ~~The officer shall advise the supervisor when the repair has been completed via Form DC3-240.~~

(d) No change.

(e) Each officer shall be responsible for having the authorized firearm, including any temporary or replacement firearm, inspected annually by a certified gunsmith or law enforcement armorer to ensure that it performs properly and conforms with the manufacturer’s standards. The officer shall present certification of such inspection to the reviewing authority via Form DC3-240.

(11) No change.

Specific Authority 20.315, 790.06, 944.09 FS. Law Implemented 20.315, 790.06, 944.09 FS. History—New 5-28-86, Amended 7-7-92, 12-20-92, 03-30-94, 9-27-94, 12-19-94, 3-8-95, 2-15-98, Formerly 33-24.013, Amended 3-4-01, 12-5-01, 8-13-03.

**DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION**

**Division of Pari-Mutuel Wagering**

RULE TITLES: RULE NOS.:  
 Permitted Medications for Greyhounds 61D-6.007  
 Permitted Medications for Horses 61D-6.008

PURPOSE AND EFFECT: The purpose and effect of the proposed rule will be to implement and interpret Florida Statutes that relate to the adoption of medication levels upon the receipt of a finalized study by the University of Florida pursuant to the Pharmacokinetic and Clearance Study Agreement.

SUBJECT AREA TO BE ADDRESSED: The subject area to be addressed in this rule is the adoption of medication levels for caffeine and its metabolites in post race urine samples.

SPECIFIC AUTHORITY: 550.2415(13),(16) FS.

LAW IMPLEMENTED 550.2415 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. – 12:00 Noon, March 4, 2004

PLACE: Florida Department of Business and Professional Regulation, Northwood Centre, Secretary’s Conference Room, Room 312, 1940 N. Monroe Street, Tallahassee, Florida 32399

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this program, please advise the Department at least 5 calendar days before the program by contacting: Mary Polombo, (850)413-0750. If you are hearing or speech impaired, please contact the agency using the Florida Dual Party Relay System by calling 1(800)955-8770 (Voice) or 1(800)955-8771 (TDD).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT IS: Mary Polombo, Clerk, Division of Pari-Mutuel Wagering, 1940 North Monroe Street, Tallahassee, Florida 32399-1035

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

**DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION**

**Division of Pari-Mutuel Wagering**

RULE CHAPTER TITLE:	RULE CHAPTER NO.:
Rules of Horseracing	61D-13
RULE TITLES:	RULE NOS.:
General Rules	61D-13.001
Stewards	61D-13.002
Jockeys	61D-13.003
Maintaining a Straight Course	61D-13.004
Disqualification	61D-13.005
Use of Whips	61D-13.006

PURPOSE AND EFFECT: The purpose and effect of the proposed rule will be to implement and interpret Florida Statutes that relate to the control, supervision and direction of all permittees and licensees holding, conducting and operating of horserace tracks, horserace meets and horse races conducted in this state.

SUBJECT AREA TO BE ADDRESSED: The subject areas to be addressed in these rules are to provide for uniform enforcement of racing rules and to safeguard the welfare of racing animals. Specifically, the rules are intended to address the following subject matter areas:

1. General Rules applicable to all horseracing including, notification of post times, maintenance of racing surfaces, and security and cleanliness of stalls.
2. Rules for Stewards at horserace tracks.
3. Rules of conduct for jockeys and drivers.
4. Rules requiring jockeys and drivers to maintain a straight course.
5. Rules regarding disqualification for interference, possession of electrical or mechanical stimulating or shocking devices.
6. Rules regarding use of a whip.

SPECIFIC AUTHORITY: 120.80(4)(a), 550.0251(3),(11), 550.1155 FS.

LAW IMPLEMENTED 120.80(4)(a), 550.0251, 550.1155 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. – 12:00 Noon, March 4, 2004

PLACE: Florida Department of Business and Professional Regulation, Northwood Centre, Secretary’s Conference Room, Room 312, 1940 N. Monroe Street, Tallahassee, Florida 32399

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

Polombo, (850)413-0750. If you are hearing or speech impaired, please contact the agency using the Florida Dual Party Relay System, 1(800)955-8770 (Voice) or 1(800)955-8771 (TDD).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT IS: Mary Polombo, Clerk, Division of Pari-Mutuel Wagering, 1940 North Monroe Street, Tallahassee, Florida 32399-1035

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

**DEPARTMENT OF ENVIRONMENTAL PROTECTION**

Pursuant to Chapter 2003-145, Laws of Florida, all notices for the Department of Environmental Protection are published on the Internet at the Department of Environmental Protection's home page at <http://www.dep.state.fl.us/> under the link or button titled "Official Notices."

**DEPARTMENT OF HEALTH**

**Board of Clinical Laboratory Personnel**

RULE TITLE: General Requirements of Clinical Laboratory Personnel Training Programs

RULE NO.: 64B3-3.001

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

SUBJECT AREA TO BE ADDRESSED: General Requirements of Clinical Laboratory Personnel Training Programs.

SPECIFIC AUTHORITY: 483.805(4), 483.811(2) FS.

LAW IMPLEMENTED: 483.800, 483.809, 483.811 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: Joe Baker, Jr., Board Executive Director, Board of Clinical Laboratory Personnel, 4052 Bald Cypress Way, Bin #C07, Tallahassee, Florida 32399-3257

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

64B3-3.001 General Requirements of Clinical Laboratory Personnel Training Programs.

(1) through (4) No change.

(5)(a) through (l) No change.

(m) In the combined categories of clinical chemistry, hematology, immunohematology, microbiology, and serology/immunology, provide a ~~minimum of one (1) year of~~ integrated instruction covering all categories.

(n) through (o) No change.

(p) In the category of andrology or embryology, a minimum of six months of instruction.

~~(q)(p)~~ Ensure that each student receives a copy of Chapter 483, Parts I and III, F.S., Chapter 456, F.S., and Chapters 59A-7 and 64B3, F.A.C.

(6) No change.

Specific Authority 483.805(4), 483.811(2) FS. Law Implemented 483.800, 483.809, 483.811 FS. History--New 12-28-94, Amended 7-12-95, 4-24-96, Formerly 59O-3.001, Amended 1-11-99, 11-15-99, 9-29-02, 2-2-04,

**DEPARTMENT OF HEALTH**

**Board of Occupational Therapy**

RULE TITLE: Examination; Passing Grade

RULE NO.: 64B11-2.006

PURPOSE AND EFFECT: The Board proposes to review the existing language in this rule to determine if amendments are necessary.

SUBJECT AREA TO BE ADDRESSED: Examination; passing grade.

SPECIFIC AUTHORITY: 468.204, 468.211(4) FS.

LAW IMPLEMENTED: 468.211(3),(4) 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 Occupational Therapy, 4052 Bald Cypress Way, Bin #C05, Tallahassee, Florida 32399-3255

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



**DEPARTMENT OF HEALTH**

**Board of Occupational Therapy**

RULE TITLE: Examination; Passing Grade

RULE NO.: 64B11-3.004

PURPOSE AND EFFECT: The Board proposes to review the existing language in this rule to determine if amendments are necessary.

SUBJECT AREA TO BE ADDRESSED: Examination; passing grade.

SPECIFIC AUTHORITY: 468.204, 468.211(4) FS.

LAW IMPLEMENTED: 468.211(4) 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 Occupational Therapy, 4052 Bald Cypress Way, Bin #C05, Tallahassee, Florida 32399-3255

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

**DEPARTMENT OF FINANCIAL SERVICES**

**Office of Insurance Regulation**

RULE TITLE: Filing Procedures for Property and Casualty Insurance Rates, Rules, Underwriting Guidelines, and Forms

RULE NO.:

Guidelines, and Forms

690-170.013

PURPOSE AND EFFECT: To develop rules to adopt procedures and standards for the review and approval of rates for terrorism insurance coverage in accordance with the Terrorism Risk Insurance Act of 2002.

SUBJECT AREA TO BE ADDRESSED: Terrorism insurance endorsements and rates.

SPECIFIC AUTHORITY: 624.308 FS.

LAW IMPLEMENTED: 624.307(1), 624.604, 624.605, 627.062, 627.0645, 627.0651 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: 9:00 a.m., March 2, 2004

PLACE: Room 116, Larson Building, 200 East Gaines Street, Tallahassee, Florida

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT IS: Jack Swisher, Bureau of Property and Casualty Forms and Rates, Office of Insurance Regulation, 200 East Gaines Street, Tallahassee, Florida 32399-0330, e-mail swisherj@dfs.state.fl.us

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

690-170.013 Filing Procedures for Property and Casualty Insurance Rates, Rules, Underwriting Guidelines, and Forms.

(1) through (6) No change.

(7) This rule applies to that portion of a rate filing relating to terrorism coverage required under the Terrorism Risk Insurance Act of 2002. The Office recognizes the difficulty facing an individual insurer in demonstrating that its rates related to terrorism are not excessive, inadequate, or unfairly discriminatory. An insurer is free to use any generally accepted and reasonable actuarial technique in its filing which it believes demonstrates that the rates requested or implemented are in compliance with Section 627.062, Florida Statutes. If an insurer is unable to demonstrate through its own methodology that the rate requested or implemented complies with Section 627.062, Florida Statutes, then the insurer may, at its option, adopt the methodology, data, and rates of another insurer, as appropriate, that have been previously approved by the Office.

Specific Authority 624.308 FS. Law Implemented 624.307(1), 624.604, 624.605, 627.062, 627.0645, 627.0651 FS. History—New 3-30-92, Amended 3-9-93, 8-23-93, 10-3-94, 8-3-95, 10-2-96, 6-19-03, Formerly 4-170.013, Amended \_\_\_\_\_.

**Section II  
Proposed Rules**

**DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES**

**Division of Agricultural Environmental Services**

RULE CHAPTER TITLE: Mosquito Control Program

RULE CHAPTER NO.:

Administration

5E-13

RULE TITLES:

RULE NOS.:

Definitions

5E-13.021

Eligibility for State Approved Program and/or Aid

5E-13.022

Certified Budgets, Filing

5E-13.027

State Aid Basis and Availability

5E-13.030

District or County Use of Funds

5E-13.031

Program Directors, Employment and Classification

5E-13.032

Penalty for Failure to Comply with Public Law 92-516, the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) of the U.S. Environmental Protection Agency and their Rules 5E-13.034

Intent 5E-13.035

Demonstrable Increase or Other Indicator of Arthropod Population Level 5E-13.036

Aircraft Application for the Control of Adult Arthropods 5E-13.037

Protection of Natural Resources and of the Health, Safety, and Welfare of Arthropod Control Employees and the General Public 5E-13.039

Criteria for Licensure or Certification of Applicators 5E-13.040

PURPOSE, EFFECT AND SUMMARY: The purpose and effect of the rule development is to amend Rule 5E-13, F.A.C., to address changes to Statute and to develop modifications for the required Mosquito Control State Approved Program forms. The subject area to be addressed is modification of Mosquito Control State eligibility and reporting requirements.

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

Any person who wishes to provide information regarding the SOERC, or to provide a proposal for a lower cost alternative must do so within 21 days of this notice.

SPECIFIC AUTHORITY: 388.361 FS.

LAW IMPLEMENTED: 388.201, 388.261, 388.271, 388.281, 388.341, 388.361, 388.4111 FS.

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

TIME AND DATE: 9:00 a.m., March 5, 2004

PLACE: George Eyster Auditorium, 3125 Conner Blvd., Tallahassee, Florida, (850)488-7447

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Steven Dwinell, Department of Agriculture and Consumer Services, Room 130, 3125 Conner Blvd., Tallahassee, Florida 32399-1650

THE FULL TEXT OF THE PROPOSED RULES IS:

5E-13.021 Definitions.

(1) "Approved Mosquito Control Agency" – any county or district in current compliance with sections 388.101 or 388.241, ~~388.261(2), 403.088(1), 388.162,~~ 388.271, 388.341, Florida Statutes and Rule 5E-13.032, Florida Administrative Code.

(2) No change.

(3) "Arthropods" – those insects of public health or nuisance importance, including all mosquitoes, biting and non-biting midges, dog flies, filth house flies, and biting yellow flies, ~~and sand flies.~~

(4) "Certified budget" – district or county budget for control of arthropods attested to by the clerk of the circuit court, notary public of the state of Florida, secretary of the board of commissioners or any other person duly authorized by law under the official seal of the district or county.

(5) through (12) No change.

(13) "Labeling" – all labels and all other written, printed, or graphic matter:

(a) Accompanying the pesticide or device at any time; or

(b) To which reference is made on the label or in literature accompanying the pesticide or device, except to current official publications of the Environmental Protection Agency, the United States Departments of Agriculture and Interior, the Department of Health and Human Services, Education and Welfare, and other similar federal or state institutions or agencies authorized by law to conduct research in the field of pesticides.

(14) through (19) No change.

(20) "Director" – a qualified person responsible for the planning and direct supervision of a district as defined under Section 388.011~~(5)2,~~ F.S., who directs the execution of a county or district mosquito control program and oversees its day-to-day activities.

(21) through (23) No change.

(24) "Public land management agency" – any federal, state, or county agency that may be responsible for the management of such public lands as parks, wildlife management areas, preserves, fishing grounds, sea shores, etc., including but not limited to the department, the Florida Department of Environmental Protection, Fish and Wildlife Conservation Game and Fresh Water Fish Commission, and Trustees of the Internal Improvement Trust Fund.

(25) through (26) No change.

(27) "Tentative" Annual Certified Budget – a budget that will be submitted to the mosquito control board for the county and/or district for approval for the upcoming fiscal year.

(28) "Landing rate count" – a method of determining adult mosquito levels by counting all mosquitoes that land on the visible portion of lower body during a one minute period. Results are expressed as numbers of mosquitoes per minute.

(29) "Direct supervision" – supervision in which the supervisor must be in immediate verbal contact, either directly or by electronic means, including, but not limited to, cell phones, radios and computers.

Specific Authority 388.361 FS. Law Implemented 388.361, ~~388.4111~~ FS. History–New 1-1-77, Formerly 10D-54.21, Amended 2-10-87, Formerly 10D-54.021, Amended 3-14-94,\_\_\_\_\_.

5E-13.022 Eligibility for State Approved Program and/or Aid.

(1) A district or county may be eligible to receive state aid for control of arthropods when it provides the following: an item in its annual budget for such purpose; a contract agreement with the department; signed acknowledgement of being subject to Chapter 215.97, F.S.; a detailed work plan budget; an operational work plan narrative; and the district or county complies with provisions of Section 388.271(1), F.S.

(2) No change.

(3) Participating districts or counties that do not want to receive state aid but want to remain or become a state approved program may be eligible when they provide the following: an annual budget for such purpose; a contract agreement with the department; signed acknowledgement of being subject to Chapter 215.97, F.S.; a detailed work plan budget; an operational work plan narrative; and the district or county complies with provisions of Section 388.271(1), F.S.

Specific Authority 388.361 FS. Law Implemented 388.361 FS., Section 11, Chapter 91-428, Laws of Florida. History--New 1-1-77, Formerly 10D-54.22, 10D-54.022, Amended \_\_\_\_\_.

5E-13.027 Certified Budgets, Filing.

(1) Not later than September 15 each district or county shall submit to the department two (2) copies of a certified budget on form DACS 130617, Annual Certified Budget for Arthropod Control, (Rev. 9/03) ~~(3/95)~~. Differences in amounts shown on the approved detailed budget and certified budget must be explained by accompanying requests for approval of changes to be made in the detailed budget. The certified budget shall show all estimated cash carry-over amounts as a beginning cash balance. When the estimated cash carry-over amount in any fund is found to be less than the actual cash carry-over amount, a budget amendment shall be submitted to budget the additional amount of funds. However, only local fund carry overs re-budgeted by October 30th will be matched. The department shall make an adjustment in funding amounts payable to the district or counties in the last 3 quarters of current fiscal year and provide notification to each district or county of any distribution changes due to the re-budget. A written request for extension of the September 15 deadline will be authorized provided the request is based on the existence of a documented urgent, non-routine situation, and a "tentative" Annual Certified Budget signed by the director is received by the department prior to the September 15 deadline that applies. Deadline failures will result in delay or loss of state aid which may be re-distributed to other existing state approved programs.

(2) Budget amendments on form DACS 130613 (Rev. 9/03) ~~(3/95)~~, entitled "Arthropod Control Budget Amendment," shall be prepared and submitted to the department prior to over-expending state funds in any account or expending state funds in non-budgeted accounts. Budget amendments must be explained by accompanying requests for

approval of changes to be made in the detailed budget. Department approval of the amendment(s) must be received before such expenditures are made. Copies of this form may be received from the department's Bureau of Entomology and Pest Control, 1203 Governors Square Boulevard, Suite 300, Magnolia Center I, Tallahassee, Florida 32301 P.O. Box 210, Jacksonville, Florida 32231-0042.

(3) Not later than thirty (30) days after the end of each month, each district or county shall submit a monthly financial report to the department. Failure to meet the deadlines will delay the quarterly installment and/or result in re-distribution of state aid to other existing state approved programs.

(4) No change.

(5) A district or county shall submit monthly chemical reports of accomplishments and an inventory of chemicals on department prescribed forms in a standardized format designated by the department to the department not later than thirty (30) days after the end of each month.

(6) No change.

(7) Forms DACS 130617, Annual Certified Budget for Arthropod Control (Rev. 9/03) ~~(3/95)~~ and DACS 130613 Arthropod Control Budget Amendment (Rev. 9/03) ~~(3/95)~~, are hereby incorporated by reference. Copies may be obtained from the Bureau of Entomology and Pest Control, 1203 Governors Square Boulevard, Suite 300, Magnolia Center I, Tallahassee, Florida 32301 P.O. Box 210, Jacksonville, Florida 32231-0042.

Specific Authority 388.361 FS. Law Implemented 388.201, 388.271, 388.341 FS., Section 11, Chapter 91-428, Laws of Florida. History--New 1-1-77, Formerly 10D-54.27, 10D-54.027, Amended 7-5-95, \_\_\_\_\_.

5E-13.030 State Aid Basis and Availability.

(1) A district or county shall be eligible to receive state funds on a dollar-for-dollar matching basis not to exceed \$120,000 ~~\$30,000~~ for any one county for any one year provided they meet the requirements of section 388.261(+), Florida Statutes. Tentative allocations and payments shall be made on the basis of local funds budgeted. If total expenditures of local funds of a district or county for the year are under \$120,000 ~~\$30,000~~ and are less than the budgeted sum, a minus adjustment shall be made in the allocation and the payment of state funds in the manner described in Rule 5E-13.030(3), F.A.C.

(2) A county or district shall, without contributing matching funds, receive state funds, supplies, services, or equipment in an amount not to exceed \$50,000 ~~\$30,000~~ per year for up to 3 years provided the district or county has a new ~~or expanded~~ mosquito control program which serves an area not previously served by the county or district. The total state funding provided for an expanded district will be calculated using the fund allocation formula applied to existing programs, but shall not be more than \$50,000 annually. As with existing programs, following the receipt and review of a district or county annual financial budget submitted in compliance with

Chapter 388.261, F.S., the amount of state funds earned by a district or county for that fiscal year will be based on the amount legislatively authorized and released by the Executive Office of the Governor.

~~(3) In addition to all other state funds, every approved mosquito control agency shall be eligible to receive Mosquito Control/Waste Tire Abatement Grant funds as set forth in Section 403.709(2)(e), Florida Statutes, these funds are to be used for the specific purpose of abating and providing mosquito control relating to waste tire sites, other waste debris sites and similar sites identified by local mosquito agencies as mosquito breeding areas. Each county with a mosquito control program like that described above shall receive a minimum of \$15,000. Any remaining funds shall be distributed to participating counties on the basis of county population. If more than one local mosquito control district exists in a county, the funds shall be prorated between the districts based on the population served by each district.~~

~~(3)(4) For purpose of budgeting state funds in any fiscal year districts or counties shall calculate amounts of state funds available to them based on estimates provided by the department. Tentative allocations and payments shall be made on the basis of matchable local funds budgeted.~~

~~(4)(5) Following receipt and review of a district or county annual financial report submitted in compliance with Chapter 388.271(1) F.S. Rule 5E-13.029(2), F.A.C. the amount of state funds earned by a district or county for that fiscal year shall be determined by the department based on release of funds by the Executive Office of the Governor. That amount is arrived at by dividing the total money appropriated by the number of participating counties or districts. Any eligible county or district budgeting an amount less than that calculated, will have its share reduced to an amount equivalent to that budgeted. Additional funds made available by such a reduction will be divided evenly between the remaining counties or districts. Any over or under allocation of funds will be considered in computing state funds payable to the district or county the succeeding fiscal year. Districts or counties shall be notified of such adjustments in amount of funds to be allocated and if necessary shall amend amount of state funds budgeted. The department shall determine the amount of state funds available following receipt and approval of certified budgets for fiscal year beginning October 1. Following the determination of funds available, if necessary, the department shall make an adjustment in amounts of money payable to the district or counties in the last 3 quarters of current fiscal year. Districts or counties shall be notified of the amount of money payable to them and if necessary shall amend amounts of state funds budgeted.~~

~~(5)(6) The amount of state funds available to a district or county for any fiscal year shall be paid in quarterly installments.~~

Specific Authority 388.361 FS. Law Implemented 388.261 FS. History--New 1-1-77, Formerly 10D-54.30, 10D-54.030, Amended 3-14-94.

5E-13.031 District or County Use of Funds.

~~(1) When purchasing Prior to advertising for the purchase of equipment with state funds, the district or county shall jointly determine with the department the type and size of equipment necessary to perform the work planned. The district or county shall submit complete specifications to the department for all equipment to be purchased when the cost will exceed six thousand (\$6,000) dollars per unit, and shall receive an approved copy of said specifications before advertising for bids.~~

~~(2) through (3) No change.~~

~~(4) Proceeds from sale or rental of property purchased with district county or state funds shall be deposited and credited to State funds.~~

~~(5) through (6) No change.~~

~~(7) Local and state funds shall be deposited in banks designated as depositories of public funds in accordance with provisions of Section 658.60 659-24, F.S.~~

Specific Authority 388.361 FS. Law Implemented 388.281 FS History--New 1-1-77, Formerly 10D-54.31, 10D-54.031, Amended 3-14-94.

5E-13.032 Program Directors, Employment and Classification.

~~(1) through (3) No change.~~

~~(4) The following minimum director classifications are based upon amount of local funds budgeted for the fiscal year in which they are initially employed and for which they assume responsibilities of administration.~~

~~(a) Director I –~~

~~Local budget \$30,000.00 40,000.00 to \$249,999.99 39,999.99. State aid \$15,000.00 to \$24,999.99.~~

~~Minimum qualifications for Director I position:~~

~~High school graduate with minimum of three (3) years of training and field experience in control of mosquitoes, or three (3) years experience in managing a comparable program, or a graduate of four (4) year college or university with a degree in the basic sciences or engineering.~~

~~(b) Director II –~~

~~Local budget \$250,000.00 40,000 to \$999,999.99. State aid \$25,000 to \$49,999.99.~~

~~Minimum qualifications for Director II position:~~

~~Graduate of four (4) year college or university with a degree in the basic sciences or engineering. Requirements for college degree shall be waived upon proof of a satisfactory work experience record of four (4) years duration directing or assisting in directing a work program in the mosquito or arthropod control field of comparable size and budget to that of the District or County were the application is pending.~~

(c) Director III –

Local budget ~~\$1,000,000.00~~ and over.  
 State aid ~~\$50,000.00~~ and over.

Minimum qualifications for Director III position : Graduate of four (4) year college or university with a degree in the basic sciences or engineering and two years work experience in mosquito control.

(5) When a mosquito control program director’s position is to be filled, the applicant shall take and pass a written Director Certification Examination prior to appointment or within six months of employment. Failure to do so may result in delay or loss of state aid which may be re-distributed to other existing state approved programs. A passing score of 70% or higher will be required for certification. The applicant must hold a valid Public Health Pest Control license in order to take the Director Certification Exam. Director Certification Exam scores shall be valid for a period of four (4) years from the date of issuance. Re-examination is not required as long as the qualified director remains in the same directorship position. Certification holders who have not found employment as a program director during this four year period, must retake the Director Certification Exam in order to re-qualify for the position. When a qualified director transfers to another district or program, they must re-take and pass the Director Certification Exam within 6 months of reassignment to the new directorship position only if their Director Certification has expired.

(6) The name and qualifications of a new program director must be forwarded to the department no later than forty five (45) day from employment date. Failure to do so may result in delay or loss of state aid which may be re-distributed to other existing state approved programs.

Specific Authority 388.361 FS. Law Implemented 388.162 FS. History–New 1-1-77, Formerly 10D-54.32, Amended 2-10-87, Formerly 10D-54.032, Amended 3-14-94, 7-5-95, \_\_\_\_\_.

5E-13.034 Penalty for Failure to Comply with Public Law 92-516, the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) of the U. S. Environmental Protection Agency and Their Rules.

(1) No change.

(2) Certification of applicators may be suspended, revoked, or renewal thereof denied, by the Department, its successor agency or programs, upon one or more of the following grounds:

(a) through (f) No change.

(g) Failure of the certified applicators to maintain for a period of at least three ~~two~~ years operational records containing information on kinds, amounts, uses, dates, and places of application of restricted use of pesticides.

Specific Authority 388.361 F.S. Law Implemented 388.361 F.S., Section 11, Chapter 91-428, Laws of Florida, History–New 1-1-77, Formerly 10D-54.34, 10D-54.034, Amended \_\_\_\_\_.

5E-13.035 Intent.

It is the intent that Rules ~~5E-13.033~~ and 5E-13.034, F.A.C., shall be subject to provisions of Public law 92-516 administered by the U.S. Environmental Protection Agency and their rules and/or by such laws as may be passed by the State of Florida, regarding the use and application of restricted pesticides as described and listed in the Federal register as rules of the U.S. Environmental Protection Agency.

(1) Mosquito and other arthropod control programs will insure that the application of pesticides are made only when necessary by determining a need in accordance with specific criteria that demonstrate a potential for a mosquito-borne disease outbreak or numbers of disease vector mosquitoes sufficient for disease transmission or defined levels of, or a quantifiable increase in numbers of pestiferous mosquitoes or other arthropods as defined by Section 388.011(1), F.S. A large population of adult mosquitoes or other athropods as defined by Section 388.011(1), F.S. must be demonstrated by a quantifiable increase in, or sustained elevated population level, in order to determine a need for the application of adulticides. At least one of the following criteria will be met and documented by records:

Specific Authority 388.361 FS. Law Implemented 388.361 FS., U.S. Pub. Law 92-516, Section 11, Chapter 91-428, Laws of Florida, History–New 1-1-77, Formerly 10D-54.35, 10D-54.-35, Amended \_\_\_\_\_.

5E-13.036 Demonstrable Increase or Other Indicators of Arthropod Population Level.

~~When a large population of adult mosquitoes is demonstrated by either a quantifiable increase in, or a sustained elevated, mosquito population level as detected by standard surveillance methods including citizen complaints.~~

(1)(2) ~~Where~~ When adult mosquito populations build to levels exceeding 25 mosquitoes per trap night or 5 mosquitoes per trap hour during crepuscular periods.

(2)(3) When service requests for ~~arthropod mosquito~~ control from the public have been confirmed ~~one or more recognized surveillance methods~~ by landing rate counts or trap counts.

(3)(4) ~~When counts as determined by normal surveillance methods~~ landing rate counts in the daytime exceed 5 per minute for stable flies (dog flies) on beaches and bay shores.

(a)(5) Aircraft applications of mosquito adulticides along beaches and bay shores shall be justified only when there is a demonstrable three-fold increase over a base population.

(b)(6) Surveillance records shall be kept at least three (3) years to document need for adulticide applications.

Specific Authority 388.361 FS. Law Implemented 388.361(2)(a) FS. History–New 2-10-87, Formerly 10D-54.036, Amended 3-14-94, 7-5-95, \_\_\_\_\_.

5E-13.037 Aircraft Application for the Control of Adult Arthropods.

- (1) No change.
- (2) Once the decision to apply an adulticide by aircraft is made, the following will apply:
  - (a) No change.
  - (b) Adulticides selected shall be those labeled for aircraft application ~~in accordance with paragraph 5E-13.046(6)(b), F.A.C.~~ to provide adequate control of the problem mosquitoes or other arthropods and when used in accordance with widespread and commonly recognized practice it will not cause unreasonable adverse effects on the environment. Adulticide labels will be strictly followed.
  - (c) through (f) No change.
- (3) No change.

Specific Authority 388.361 FS. Law Implemented 388.361(2)(a) FS., Section 11, Chapter 91-428, Laws of Florida. History--New 2-10-87, Formerly 10D-54.037, Amended \_\_\_\_\_.

5E-13.039 Protection of Natural Resources and of the Health, Safety, and Welfare of Arthropod Control Employees and the General Public.

- (1) No change.
- (2) To protect the health, safety and welfare of ~~arthropod mosquito~~ control employees and the general public, applicators certified in public health pest control ~~or health related pest control~~ will supervise no more than ~~5~~ 15 uncertified employees and shall provide instructions and training to those employees to include the following:
  - (a) through (g) No change.
  - (3) A signed statement attesting that this instruction was provided by the certified applicator supervisor to each unlicensed applicator shall be kept on file and made available to the department upon request.

Specific Authority 388.361 FS. Law Implemented 388.361(2)(d) FS., Section 11, Chapter 91-428, Laws of Florida. History--New 2-10-87, Formerly 10D-54.039, Amended \_\_\_\_\_.

5E-13.040 Criteria for Licensure or Certification of Applicators.

- (1) No change.
- (2) Licensing and exemptions. All persons who apply an arthropod control pesticide, unless they operate under the direct supervision of a licensed applicator, as defined in subsection 5E-13.021(29), F.A.C. shall apply to the department for certification and be licensed as a Public Health Pest Control ~~an arthropod control pesticide~~ applicator by the department whether such pesticides used are classified as general use or restricted use, except those applicators controlling arthropods upon their own individual residential or agricultural property.
- (3) Certification Standards. Competency standards for the certification of Public Health Pest Control applicators will be determined by passing the Public Health Pest Control

examination, which demonstrates a practical knowledge of the principles of mosquito control ~~an examination that demonstrates a practical knowledge of the principles and practices of arthropod control and the safe use of pesticides and a category examination which demonstrates a knowledge of vector-disease transmission as it relates to and influences application programs.~~ and vector-disease transmission. A passing grade of 70 percent, or above, will be required on this examination administered by the department. In addition, applicants must pass the General Standards (Core) exam, to demonstrate a knowledge of pesticide use and safety. A passing grade of 70 percent, or above, will be required on this examination administered by the department.

(4) Recertification. All persons licensed in Public Health Pest Control certified shall provide evidence of continued competency prior to license certificate renewal by examination or by accrual of not less than 16 hours of continuing education credit during each 4 year licensure period. Each certificate holder shall complete a minimum of 2 hours of approved continuing education on legislation, safety, pesticide labeling, mosquito biology, and mosquito control techniques, or pass an examination given by the department. Failure to meet continuing education requirements or to pass an examination on the topics detailed above, shall result in the non renewal of the license, and applicators must retake and pass both the Public Health Pest Control and the General Standards (Core) examinations to obtain a new license a certificate. Courses or programs to be considered for credit shall contain one or more of the following topics:

- (a) The law and rules of the state pertaining to mosquito control.
- (b) Precautions necessary to safeguard life, health, and property in the conducting of mosquito control and the application of pesticides.
- (c) Mosquitoes, their habits, identification, and relative importance as to nuisance and vectors of disease.
- (d) Currently accepted practices in the conducting of measures for the control of adult and larval forms of mosquitoes and surveillance techniques.
- (e) How to read labels, a review of current state and federal laws on labeling, and a review of changes in or additions to labels on pesticides used in mosquito control.

(5) through (6) No change.  
~~(7) All applicators performing public health pest control shall be licensed by January 1, 1988.~~

(7)(8) Public Health Pest Control applicators shall keep accurate records so that monthly activity reports relative to pesticide application, source reduction, water management, biological control and surveillance activities can be assessed by the department. Pesticides use records shall include the name of applicator, pesticide and amount used, how applied,

where applied, rate of application, date and time of application. These reports shall be retained for a period of 3 years and be made available to the department upon request.

~~(8)(9) Aerial applicators who apply an arthropod control pesticide, shall apply to the department for certification and be licensed as a Public Health Pest Control Aerial applicator by the department whether such pesticides used are classified as general use or restricted use, except those applicators controlling arthropods upon their own individual residential or agricultural property. Aerial applicators shall demonstrate a practical knowledge of the principles and practices of aerial pest control and the safe application of pesticides by aerial delivery means. Such competence will be demonstrated by passing the Aerial, Public Health Pest Control Applicator, and General Standards (Core) examinations in an aerial applicator examination administered by the department. There shall be no provision for an unlicensed aerial applicator to operate under the supervision of a licensed aerial applicator. In addition, aerial applicators conducting mosquito control operations must be certified in Public Health Pest Control as outlined above.~~

~~(10) All new mosquito control directors shall demonstrate competence in all the areas as heretofore described for Public Health Pest Control certification. In addition, a director must demonstrate an understanding of budgetary planning and mathematical calculations for mixing and applying pesticides. Directors shall demonstrate their knowledge of the above by passing an examination administered by the department.~~

Specific Authority 388.361 FS. Law Implemented 388.361(4) FS. History—New 2-10-87, Formerly 10D-54.040, Amended 3-14-94,\_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE: Steve Dwinell, Assistant Director, Division of Agricultural Environmental Services, Department of Agriculture and Consumer Services

NAME OF PERSON OR SUPERVISOR WHO APPROVED THE PROPOSED RULE: Steve Rutz, Director, Division of Agricultural Environmental Services, Department of Agriculture and Consumer Services

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: July 18, 2003

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: August 8, 2003

**DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES**

**Division of Agricultural Environmental Services**

RULE CHAPTER TITLE:	RULE CHAPTER NO.:
Entomology – Pest Control	
Regulations	5E-14
RULE TITLES:	RULE NOS.:
Licensee Identification – Vehicles, Equipment	5E-14.103
Responsibilities and Duties – Records	
Reports, Advertising, Applications	5E-14.142

PURPOSE, EFFECT AND SUMMARY: The purpose of the rule amendment is to implement Section 482.051(2), F.S., that provides authority to allow temporary signage for pest control vehicles used exclusively for sales and solicitation. It also adds an inspection standard that defines wood destroying fungi to exclude surface molds that do not cause damage to wood and adopts a revision to the wood destroying organism inspection report regarding opinions about health effects from mold infestation.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: No SOERC has been prepared.

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

SPECIFIC AUTHORITY: 482.051, 482.226 FS.

LAW IMPLEMENTED: 482.051, 482.226 FS.

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

TIME AND DATE: 1:00 p.m., March 11, 2004

PLACE: Conference Room C, Hurston Building South Tower, 400 South Robinson St., Orlando, FL 32810

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Mr. Steven Dwinell, Assistant Director, Department of Agriculture and Consumer Services, Room 130, 3125 Conner Blvd., Tallahassee, FL 32399-1650

THE FULL TEXT OF THE PROPOSED RULES IS:

5E-14.103 Licensee Identification – Vehicles, Equipment.

To assist the Department in enforcement of Chapter 482, F.S., and all regulations thereunder, the licensee shall identify all units or equipment used by him or in his behalf for pest control as follows:

(1) All motor vehicles and all trailers used in behalf of or by any licensee or licensee’s employees in the conduct of pest control shall be permanently marked for easy identification with the licensee’s name or trade name, as registered with the Department. The term “permanently marked” shall mean paint or decals applied to the vehicle body itself. Magnetic signs are prohibited except as provided below. This requirement may be waived by the Department for a period of time not to exceed fifteen (15) working days in authentic and verifiable emergencies when the licensee has given written notice to the ~~Department Entomologist Inspector in the area~~ describing the cause of the emergency, the vehicle being replaced, the substituting vehicle, and the anticipated termination date of the emergency. Vehicles used exclusively for the purpose of sales and soliciting of business may be temporarily marked, including the use of magnetic signs, provided that no pesticides or pesticide application equipment are carried in the vehicle. All vehicles used in the conduct of pest control that carry or contain pesticides or pesticide application equipment, or perform wood destroying organisms inspection for the purpose

of real estate transactions in accordance with Chapter 482.226(1) and (2), F.S., shall be permanently marked as provided above.

Specific Authority ~~482.051(2)(+)~~ FS. Law Implemented ~~482.051(1)(2)~~, 482.161, 482.191 FS., Section 1, Chapter 92-203, Laws of Florida. History—New 1-1-77, Joint Administrative Procedures Committee Objection Withdrawn – See FAW Vol. 3, No. 30, July 29, 1977, Amended 6-27-79, Formerly 10D-55.103, Amended \_\_\_\_\_.

5E-14.142 Responsibilities and Duties – Records Reports, Advertising, Applications.

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

(c) Termite or other wood-destroying organism inspection report:

Pursuant to Sections 482.226(1),(2),(4) and (5), F.S., each licensee having a certified operator in the category of termite or other wood-destroying organism control and who makes and reports the findings of a wood-destroying organism inspection in writing shall provide the party requesting the inspection with the inspection findings in the Wood-Destroying Organisms Inspection Report prescribed by the Department and furnished by the licensee, DACS 13645, Rev. 02/04 ~~3/02~~, which is incorporated by reference. The licensee shall not place any disclaimers or additional language on the Wood Destroying Organisms Inspection Report. The licensee shall inspect for all wood-destroying organisms as defined in Section 482.021(28), F.S., in accordance with the following inspection standards:

1. through 2. No change.

3. The inspection shall include an examination for visual evidence of wood-decaying fungi and damage caused by wood-decaying fungi. Wood-decaying fungi are fungi that contain enzymes necessary to degrade cellulose in wood and that can cause damage to wood, such as those that produce white rot, brown rot, and cubical rot, but not surface molds that do not cause damage to sound wood.

Specific Authority 482.051 FS. Law Implemented ~~482.064~~, 482.071, 482.091, ~~482.114(5),(9)~~, 482.161(1)(g), 482.226(1),(2),(4),(5),(6) FS. History—New 1-2-77, Amended 6-27-79, 6-22-83, 1-20-87, 10-25-90, Formerly 10D-55.142, Amended 8-11-93, 5-28-98, 4-29-02, 4-17-03, \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE: Steve Dwinell, Division of Agricultural Environmental Services, Department of Agriculture and Consumer Services

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Steve Rutz, Director, Division of Agricultural Environmental Services, Department of Agriculture and Consumer Services

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: September 10, 2003

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: October 17, 2003

**DEPARTMENT OF EDUCATION**

**State Board of Education**

RULE TITLES:	RULE NOS.:
Development of Educational Plans for Exceptional Students Who Are Gifted	6A-6.030191
Specially Designed Instruction for Students Who Are Homebound or Hospitalized	6A-6.03020
Development of Individual Educational Plans for Students with Disabilities	6A-6.03028
Development of Services Plans for Students with Disabilities Enrolled in Private School by their Parents and Provided with Specially Designed Instruction and Related Services by the Local School Board	6A-6.030281
Development of Family Support Plans for Children with Disabilities Ages Birth through Five Years	6A-6.03029
Procedural Safeguards for Children with Disabilities Ages Birth through Two Years	6A-6.03032
Identification and Determination of Eligibility of Exceptional Students for Specially Designed Instruction	6A-6.0331
Procedural Safeguards for Students with Disabilities	6A-6.03311
Discipline Procedures for Students with Disabilities	6A-6.03312
Procedural Safeguards for Exceptional Students Who Are Gifted	6A-6.03313
Procedural Safeguards for Students with Disabilities Enrolled in Private Schools by Their Parents	6A-6.03314
Policies and Procedures for the Provision of Specially Designed Instruction and Related Services for Exceptional Students	6A-6.03411

PURPOSE AND EFFECT: The purpose of these revisions or new rules is to incorporate the revisions required for programs for students with disabilities by the amendments to the federal law, the Individuals with Disabilities Education Act (IDEA) 20 U.S.C. Chapter 33, and its implementing regulations. The effect of these revisions and new rules will be consistency with the federal requirements in a more consumer-friendly manner.

SUMMARY: These rules are to meet Federal requirements for programs for students with disabilities and state requirements for programs for students who are gifted, including procedures for identification, evaluation, determination of eligibility, development of individual plans, and reevaluation, discipline, and the accompanying procedural safeguards. Rules address policies and procedures for the provision of specially designed instruction and related services for exceptional students.



SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: None.

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

SPECIFIC AUTHORITY: 1001.02(1), 1003.57(5) FS.

LAW IMPLEMENTED: 1001.03, 1002.38, 1003.57(5), 1003.01(3), 1011.62(1)(c) FS., Individuals with Disabilities Education Act 20 U.S.C. Chapter 33

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

TIME AND DATE: 8:30 a.m., March 16, 2004

PLACE: 325 West Gaines Street, Tallahassee, Florida 32399-0400

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Shan Goff, K-12 Deputy Chancellor for Student Achievement, Florida Department of Education, 325 West Gaines Street, Room 514, Tallahassee, Florida 32399-0400, (850)245-5020

THE FULL TEXT OF THE PROPOSED RULES IS:

6A-6.030191 Development of Educational Plans for Exceptional Students who are Gifted.

Educational Plans (EPs) are developed for students identified solely as gifted. Parents are partners with schools and school district personnel in developing, reviewing, and revising the educational plan (EP) for their child. Procedures for the development of the EPs for exceptional students who are gifted, including procedures for parental involvement, shall be set forth in each district's Policies and Procedures for the Provision of Specially Designed Instruction and Related Services to Exceptional Students document and shall be consistent with the following requirements.

(1) Role of parents. The role of parents in developing EPs includes:

(a) Providing critical information regarding the strengths of their child;

(b) Expressing their concerns for enhancing the education of their child so that they receive a free appropriate public education;

(c) Participating in discussions about the child's need for specially designed instruction;

(d) Participating in deciding how the child will be involved and progress in the general curriculum; and

(e) Participating in the determination of what services the school district will provide to the child and in what setting.

(2) Parent participation. Each school board shall establish procedures which shall provide for parents to participate in decisions concerning the EP. Such procedures shall include the following:

(a) Each district shall take the following steps to ensure that one (1) or both of the parents of a student who is gifted is present or is afforded the opportunity to participate at each EP meeting:

1. Notifying parents of the meeting early enough to ensure that they will have an opportunity to attend; and

2. Scheduling the meeting at a mutually agreed on time and place.

(b) A written notice to the parents must indicate the purpose, time, location of the meeting, and who, by title and or position, will be attending. The notice must also include a statement informing the parents that they have the right to invite an individual with special knowledge or expertise about their child.

(c) If neither parent can attend, the school district shall use other methods to ensure parent participation, including individual or conference telephone calls.

(d) A meeting may be conducted without a parent in attendance if the school district is unable to obtain the attendance of the parents. In this case, the district must have a record of its attempts to arrange a mutually agreed on time and place such as:

1. Detailed records of telephone calls made or attempted and the results of those calls;

2. Copies of correspondence sent to the parents and any responses received; or

3. Detailed records of visits made to the parents' home or place of employment and the results of those visits.

(e) The district shall take whatever action is necessary to ensure that the parents understand the proceedings at an EP meeting, which may include arranging for an interpreter for parents and students who are deaf or whose native language is a language other than English.

(f) The district shall give the parents a copy of the EP at no cost to the parents.

(3) Educational plan (EP) team participants. The EP team shall include the following participants:

(a) The parents of the student in accordance with subsection (2) of this rule;

(b) One regular education teacher of the student who, to the extent appropriate, is involved in the development and review of a student's EP. Involvement may be the provision of written documentation of a student's strengths and needs.

(c) At least one teacher of the gifted program;

(d) A representative of the school district who is qualified to provide or supervise the provision of specially designed instruction to meet the unique needs of students who are gifted, is knowledgeable about the general curriculum, and is knowledgeable about the availability of resources of the school district. At the discretion of the school district, one of the student's teachers may be designated to also serve as the representative of the school district;

(e) An individual who can interpret the instructional implications of evaluation results who may be a member of the team as described in paragraphs (3) (b)-(d) of this rule;

(f) At the discretion of the parent or the school district, other individuals who have knowledge or special expertise regarding the student. The determination of knowledge or special expertise of any individual shall be made by the party who invites the individual to be a member of the EP team; and

(g) The student, as appropriate.

(4) Contents of Educational Plans (EPs). EPs for students who are gifted must include:

(a) A statement of the student's present levels of performance which may include, but is not limited to, the student's strengths and interests, the student's needs beyond the general curriculum, results of the student's performance on state and district assessments, and evaluation results;

(b) A statement of goals, including benchmarks or short term objectives;

(c) A statement of the specially designed instruction to be provided to the student;

(d) A statement of how the student's progress toward the goals will be measured and reported to parents; and

(e) The projected date for the beginning of services, and the anticipated frequency, location, and duration of those services;

(5) Considerations in EP development, review and revision. The EP team shall consider the following:

(a) The strengths of the student and needs resulting from the student's giftedness.

(b) The results of recent evaluations, including class work and state or district assessments.

(c) In the case of a student with limited English proficiency, the language needs of the student as they relate to the EP.

(6) Timelines. Timelines for EP meetings for students who are gifted shall include the following:

(a) An EP must be in effect at the beginning of each school year.

(b) An EP shall be developed within thirty (30) calendar days following the determination of eligibility for specially designed instruction and shall be in effect before the provision of these services.

(c) Meetings shall be held to develop and revise the EP at least every three (3) years for students in grades K-8 and at least every four (4) years for students in grades 9-12. EPs may be reviewed more frequently as needed, such as when the student transitions from elementary to middle school and middle to high school.

(7) EP Implementation. An EP must be in effect before specially designed instruction is provided to an eligible student and is implemented as soon as possible following the EP meeting.

(a) The EP shall be accessible to each of the student's teachers who are responsible for the implementation.

(b) Each teacher of the student shall be informed of specific responsibilities related to implementing the student's EP.

Specific Authority 1001.02(1),(2)(n), 1003.01(3)(a),(b), 1003.57(5) FS. Law Implemented 1003.01(3)(a),(b), 1001.42(4)(l), 1011.62(1)(c), 1001.03(8) FS. History--New

6A-6.03020 Specially Designed Instruction for Special Programs for Students Who Are Homebound or Hospitalized.

(1) Homebound or hospitalized. A homebound or hospitalized student is a student who has a medically diagnosed physical or ~~mental~~ psychiatric condition which is acute or catastrophic in nature, or a chronic illness, or a repeated intermittent illness due to a persisting medical problem and which confines the student to home or hospital, and restricts ~~whose~~ activities ~~are restricted~~ for an extended period of time. The medical diagnosis shall be made by a licensed physician.

(2) The term licensed physician, as used in ~~this rule, is defined in Chapters 458 and 459, Florida Statutes, and Rule 6A-6.03020, FAC.~~, is one who is qualified to assess the student's physical or ~~psychiatric~~ ~~mental~~ condition.

(3) Criteria for eligibility. A student, ~~who is homebound or hospitalized,~~ is eligible for ~~specially designed instruction special programs for homebound or hospitalized~~ if the following criteria are met:

(a) ~~A~~ Certification by a licensed physician(s) must certify that the student, as specified in Rule 6A-6.03020(2), FAC.,

1. ~~Is that the student is~~ expected to be absent from school due to a physical or ~~psychiatric~~ ~~mental~~ condition for at least fifteen (15) consecutive school days, ~~or the equivalent on a block schedule,~~ or due to a chronic condition, for at least fifteen (15) school days, ~~or the equivalent on a block schedule,~~ which need not run consecutively;;

2. ~~Is confined to home or hospital; and~~

3. ~~Will~~ will be able to participate in and benefit from an instructional program; ~~and~~

4. ~~(b) Is~~ Student is under medical care for illness or injury which is acute, ~~or catastrophic,~~ or chronic in nature; and

5. ~~(c) Certification by a licensed physician as specified in Rule 6A-6.03020(2), FAC., that the student can~~ Can receive an instructional ~~services program~~ without endangering the health and safety of the instructor or other students with whom the instructor may come in contact; ~~and~~

~~(b)(d) The student~~ Student is enrolled in a public school ~~in kindergarten through twelfth grade~~ prior to the referral for the homebound or hospitalized ~~services or program,~~ unless the student meets criteria for eligibility under Rules 6A-6.03011, 6A-6.03012, 6A-6.03013, 6A-6.03014, 6A-6.03015, 6A-6.03016, 6A-6.03018, ~~6A-6.03019,~~ 6A-6.03021, 6A-6.03022, 6A-6.03023, ~~6A-6.03024,~~ and 6A-03025, and 6A-6.03027, FAC., and

~~(c)(e)~~ A parent, guardian or primary caregiver signs parental agreement concerning homebound or hospitalized policies and parental cooperation.

(4) Procedures for student evaluation.

(a) The minimum evaluation for a student to determine eligibility shall be an annual medical statement from a licensed physician(s) as specified in Rule 6A-6.03020(2), FAC., including a description of the disabling handicapping condition or diagnosis with any medical implications for instruction. This report shall state that the student is unable to attend school describe the plan of treatment, provide recommendations regarding school re-entry, and give an estimated duration of condition or prognosis. The team determining eligibility may require additional evaluation data. This additional evaluation data must be provided at no cost to the parent.

(b) A physical reexamination and a medical report by a licensed physician(s) ~~as specified in Rule 6A-6.03020(2), FAC.,~~ may be requested by the administrator of exceptional student education or the administrator's designee on a more frequent basis than required in paragraph (4)(a) of this rule Rule 6A-6.0331(1)(e), FAC., and may shall be required if the student is scheduled to attend school part of a day during a recuperative period of readjustment to a full school schedule. This physical reexamination and medical report shall be provided at no cost to the parent.

(5) Procedures for determining eligibility. Procedures for determining eligibility shall be in accordance with Rule 6A-6.0331, FAC.

~~(a) For a student who is medically diagnosed as chronically ill or who has repeated intermittent illness due to a persisting medical problem, staffing as required in Rule 6A-6.0331(2) and (4)(b), (c), (d), and (e), FAC., shall be held annually to establish continuing eligibility for homebound or hospitalized services.~~

~~(b) A student may be alternately assigned to the homebound or hospitalized program and to a school-based program due to a severe, chronic or intermittent condition as certified by a licensed physician, as specified in Rule 6A-6.03020(2), FAC.~~

(6) Procedures for providing an individual educational plan.

(a) ~~For the homebound or hospitalized student who meets the eligibility criteria for programs as listed in Rule 6A-6.03020(3)(d), FAC.,~~ the individual educational plan shall be developed or revised prior to assignment to the homebound or hospitalized program placement as required in Rule 6A-6.03028, FAC. A student may be alternatively assigned to the homebound or hospitalized program and to a school-based program due to an acute, chronic, or intermittent condition as certified by a licensed physician, as specified in subparagraph (3)(a)1., of this rule. This decision shall be made by the individual educational plan (IEP) team in accordance with the requirements of Rule 6A-6.03028, FAC.

~~(b) For the homebound or hospitalized student who does not meet the eligibility criteria for programs as listed in Rule 6A-6.03020(3)(d), FAC., whose physician expects the placement in the homebound or hospitalized program to exceed thirty (30) consecutive school days, the individual educational plan shall be developed prior to assignment but may be developed without a formal meeting, as required in Rule 6A-6.0331, FAC.~~

~~(c) For the homebound or hospitalized student who does not meet the eligibility criteria for programs as listed in Rule 6A-6.03020(3)(d), FAC., whose physician expects the placement in the homebound or hospitalized program not to exceed thirty (30) consecutive school days, the individual educational plan may be developed after assignment and without the formal meeting required in Rule 6A-6.0331, FAC.~~

(7) Instructional services program. The following settings and instructional modes, or a combination thereof, are acceptable for this program appropriate methods for providing instruction to students determined eligible for these services:

(a) Instruction in a home. The parent, guardian or primary caregiver shall provide a quiet, clean, well-ventilated setting where the teacher and student will work; ensure that a responsible adult is present; and establish a schedule for student study between teacher visits which takes into account the student's medical condition and the requirements of the student's coursework.

(b) Instruction in a hospital. The hospital administrator or designee shall provide appropriate space for the teacher and student to work and allow for the establishment of a schedule for student study between teacher visits.

(c) Instruction through telecommunications or computer devices. When the individual education plan (IEP) team determines that instruction is by telecommunications or computer devices telephone, the parent, guardian, or primary caregiver shall provide an open, uninterrupted telecommunication link shall be provided at no additional cost to the parent, telephone line during the instructional period, and The parent shall ensure that the student is prepared to actively participate in learning.

~~(8) Funding. Students shall be counted for the homebound or hospitalized cost factor when instruction is by any of the following methods: individual instruction on a one-to-one basis, group instruction when all students in the group are members of the same family, and instruction provided through telecommunications.~~

Specific Authority 1001.02(1),(2)(n), 1003.01(3)(a), 1003.57(5) 228.041(18),(19), 229.053(1), 230.23(4)(m) FS. Law Implemented 1001.42(4)(l), 1003.01(3)(a),(b), 1001.03(8), 1003.57(5), 1011.62(1)(c) 228.041(18),(19), 229.565(3)(b)(c), 230.23(4)(m)4., 232.01(1)(e), 236.081(1)(e) FS, PL 105-17, (20 USC 1401, 1412, 1414, 1415) History—New 7-1-77, Amended 7-2-79, 4-27-82, Formerly 6A-6.3020, Amended 5-18-86,

(Substantial rewording of Rule 6A-6.03028 follows. See Florida Administrative Code for present text.)

6A-6.03028 Development of Individual Educational Plans for Exceptional Students with Disabilities.

An Individual Educational Plan (IEP) or Individual Family Support Plan (IFSP) must be developed, reviewed, and revised for each eligible child with a disability served by a school district, or other state agency that provides special education and related services either directly, by contract, or through other arrangements, in accordance with this rule. Parents are partners with schools and school district personnel in developing, reviewing, and revising the individual educational plan (IEP) for their child. The Florida Department of Education (FLDOE) shall carry out activities to ensure that teachers and administrators in all local school districts are informed about their responsibilities for implementing Title 34, Section 300.550 Code of Federal Regulations (CFR). If there is evidence that the local school district makes placements that are inconsistent with 34 CFR 300.550, the FLDOE shall review the school district's justification for its actions; and assist in planning and implementing any necessary corrective action. Procedures for the development of the individual educational plan, including procedures for parental involvement, and the required contents for the IEP shall be set forth in each district's Policies and Procedures for the Provision of Specially Designed Instruction and Related Services for Exceptional Students document and shall be consistent with the following requirements:

(1) Role of parents. The role of parents in developing IEPs includes, but is not limited to:

(a) Providing critical information regarding the strengths of their child;

(b) Expressing their concerns for enhancing the education of their child so that their child can receive a free appropriate public education;

(c) Participating in discussions about the child's need for specially designed instruction and related services;

(d) Participating in the determination of how the child will be involved and progress in the general curriculum, including participation in the statewide assessment program and in district-wide assessments;

(e) Participating in the determination of what services the school district will provide to the child and in what setting; and

(f) Participating in the determination of whether the child is pursuing a course of study leading towards a standard diploma, consistent with Section 1003.43, Florida Statutes, or a special diploma, consistent with Section 1003.438, Florida Statutes.

(2) Definitions.

(a) General curriculum. The general curriculum is a curriculum or course of study that addresses the Florida Sunshine State Standards and state and district requirements for a standard diploma.

(b) Assistive technology service. Assistive technology service means any service that directly assists a student with a disability in the selection, acquisition, or use of an assistive technology device. This term includes:

1. The evaluation of the needs of a student with a disability, including a functional evaluation of the student in the student's customary environment;

2. Purchasing, leasing, or otherwise providing for the acquisition of assistive technology devices;

3. Selecting, designing, fitting, customizing, adapting, applying, maintaining, repairing, or replacing assistive technology devices;

4. Coordinating and using other therapies, interventions, or services with assistive devices;

5. Training or technical assistance for a student with a disability or, if appropriate, that student's parents;

6. Training or technical assistance for professionals, employers, or other individuals who provide services to, employ, or are otherwise substantially involved in the major life functions of the student.

(c) Assistive technology device. Assistive technology device means any item, piece of equipment, or product system, whether acquired commercially off the shelf, modified, or customized, that is used to increase, maintain, or improve the functional capabilities of a student with a disability.

(d) Extended school year. Extended school year means specially designed instruction and related services that are provided to a student with a disability beyond the normal school year of the school district, in accordance with the student's individual educational plan (IEP), and at no cost to the parents.

(e) Accommodations. Accommodations are changes that are made in how the student accesses information and demonstrates performance.

(f) Modifications. Modifications are changes in what a student is expected to learn and may include changes to content, requirements, and expected level of mastery.

(g) Transition services. Transition services means a coordinated set of activities for a student with a disability designed within an outcome-oriented process and based upon the student's desired post-school outcomes that promotes movement from school to post-school activities which may include postsecondary education, vocational training, integrated employment (including supported employment), continuing and adult education, adult services, independent living, or community participation. Transition services for students with disabilities may be special education, if provided as specially designed instruction, or related services, if required to assist the student to benefit from special education.

(3) Parent participation for students with disabilities. Each school board shall establish procedures that shall provide for parents, guardians, surrogate parents or persons acting in loco parentis to participate in decisions concerning the IEP. Parents

of each student with a disability must be members of any group that makes decisions on the educational placement of their child. Such procedures shall include the following:

(a) Each district shall take the following steps to ensure that one (1) or both of the parents of the student is present at each meeting or is afforded the opportunity to participate at each meeting, including:

1. Notifying parents of the meeting early enough to ensure that they will have an opportunity to attend; and

2. Scheduling the meeting at a mutually agreed on time and place.

(b) A written notice to the parents must indicate the purpose, time, and location of the meeting, and who, by title or position, will be attending. The notice must also include a statement informing the parents that they have the right to invite individuals with special knowledge or expertise about their child.

1. For a student with a disability beginning at age 14, or younger if determined appropriate by the IEP team, the notice must also indicate that a purpose of the meeting will be the development of a statement of the transition services needs of the student as required in paragraph (7)(i) of this rule and the notice must indicate that the school district will invite the student.

2. For a student with a disability, beginning at age 16, or younger if determined appropriate by the IEP team, the notice must indicate that a purpose of the meeting is the consideration of needed transition services for the student as required in paragraphs (7)(i) and (j) of this rule, indicate that the school district will invite the student, and indicate any other agency that will be invited to send a representative.

(c) If neither parent can attend, the school district shall use other methods to ensure parent participation, including individual or conference telephone calls.

(d) A meeting may be conducted without a parent in attendance if the school district is unable to obtain the attendance of the parents. In this case, the district must have a record of its attempts to arrange a mutually agreed on time and place, such as:

1. Detailed records of telephone calls made or attempted and the results of those calls;

2. Copies of correspondence sent to the parents and any responses received; or

3. Detailed records of visits made to the parents' home or place of employment and the results of those visits.

(e) The district shall take whatever action is necessary to ensure that the parents and the student, beginning at age fourteen (14), understand the proceedings at a meeting, which may include arranging for an interpreter for parents and students who are deaf or whose native language is a language other than English.

(f) The district shall give the parents a copy of the IEP at no cost to the parents.

(4) IEP team participants. The IEP team, with a reasonable number of participants, shall include:

(a) The parents of the student in accordance with subsection (3) of this rule;

(b) At least one (1) regular education teacher of the student, if the student is or may be participating in the regular education environment. The regular education teacher of a student with a disability must, to the extent appropriate, participate in the development, review, and revision of the student's IEP, including assisting in the determination of:

1. Appropriate positive behavioral interventions and strategies for the student; and

2. Supplementary aids and services, classroom accommodations, modifications or supports for school personnel that will be provided for the student consistent with paragraph (7)(c) of this rule.

(c) At least one (1) special education teacher of the student;

(d) A representative of the school district who is qualified to provide or supervise the provision of specially designed instruction to meet the unique needs of students with disabilities, is knowledgeable about the general curriculum, and is knowledgeable about the availability of resources of the school district. At the discretion of the school district, the student's special education teacher may be designated to also serve as the representative of the school district if the teacher meets the requirements described in this paragraph;

(e) An individual who can interpret the instructional implications of evaluation results who may be a member of the team as described in paragraphs (4)(b)-(d) of this rule;

(f) At the discretion of the parent or the school district, other individuals who have knowledge or special expertise regarding the student, including related services personnel as appropriate. The determination of the knowledge or special expertise of any such individual shall be made by the party who invited the individual to be a member of the IEP team; and

(g) The student, if appropriate. If the student does not attend the IEP meeting consistent with paragraphs (4)(h)-(i) of this rule, the school district shall take other steps to ensure that the student's preferences and interests are considered.

(h) The student, beginning by the student's fourteenth birthday or younger if determined appropriate by the IEP team, when the purpose of the meeting is to consider the student's transition service needs, as described in paragraphs (7)(i)-(j) of this rule. If the student does not attend, the school district shall take other steps to ensure that the student's preferences and interests are considered.

(i) To implement the requirements of paragraph (7)(j) of this rule, the school district shall invite a representative of any other agency that may be responsible for providing or paying for transition services, when the purpose of the IEP meeting is to consider transition services. If an agency invited to send a

representative to a meeting does not do so, the school district shall take other steps to obtain the participation of the agency in the planning of any transition services.

(5) Timelines. Timelines for IEP meetings for students with disabilities shall include the following:

(a) An IEP, which has been reviewed, and if appropriate, revised within the past year, must be in effect at the beginning of each school year for each eligible student with a disability.

(b) An IEP must be developed within thirty (30) calendar days following the determination of a student's eligibility for specially designed instruction and related services and be in effect prior to the provision of these services.

(c) Meetings shall be held to develop, review and revise the IEP. A meeting shall be held at least once every twelve (12) months to review each IEP and, as appropriate, revise its provisions in accordance with all aspects of this rule.

(6) Considerations in IEP development, review, and revision for students with disabilities. The IEP team shall consider the following in IEP development, review, and revision:

(a) The strengths of the student and the concerns of the parents for enhancing the education of their child;

(b) The results of the initial or most recent evaluation of the student;

(c) As appropriate, the results of the student's performance on any general state or district assessment;

(d) In the case of a student whose behavior impedes learning or the learning of others, if appropriate, strategies, including positive behavioral interventions, strategies, and supports to address that behavior;

(e) In the case of a student with limited English proficiency, the language needs of the student as those needs relate to the student's IEP;

(f) In the case of a student who is blind or visually impaired, provision of instruction in Braille and the use of Braille unless the IEP team determines, after an evaluation of the student's reading and writing skills, needs, including future needs, and appropriate reading and writing media, that instruction in Braille or the use of Braille is not appropriate for the student;

(g) The communication needs of the student, and in the case of a student who is deaf or hard of hearing, the student's language and communication needs, opportunities for direct communications with peers and professional personnel in the student's language and communication mode, academic level, and full range of needs, including opportunities for direct instruction in the student's language and communication mode;

(h) Whether the student requires assistive technology devices and services. On a case-by-case basis, the use of school-purchased assistive technology devices in a student's home or in other settings is required if the IEP team determines that the student needs access to those devices in order to receive a free appropriate public education; and

(i) At least annually, whether extended school year services are necessary for the provision of a free appropriate public education to the student consistent with the following:

1. Extended school year services (ESY) must be provided if a student's IEP team determines, on an individual basis, that the services are necessary for the provision of a free appropriate public education to the student.

2. Criteria that can be used to determine whether a student requires ESY may include, but are not limited to:

a. Regression and recoupment;

b. Critical points of instruction;

c. Emerging skills;

d. Nature and/or severity of the disability;

e. Interfering behaviors;

f. Rate of progress; or

g. Special circumstances.

3. School districts may not limit ESY to particular categories of disability or unilaterally limit the type, amount, or duration of those services.

(j) If, after consideration of the factors in paragraphs 6)(a)-(i), the IEP team determines that a student needs a particular device or service, including an intervention, accommodation or other program modification, in order for the student to receive a free appropriate public education, the IEP must include a statement to that effect.

(7) Contents of the IEP for students with disabilities. Each district, in collaboration with the student's parents, shall develop an IEP for each student with a disability. For children with disabilities ages three (3) through five (5) years, districts may develop an IEP or a family support plan in accordance with Rule 6A-6.03029, FAC. The IEP for each student with a disability must include:

(a) A statement of the student's present levels of educational performance, including how the student's disability affects the student's involvement and progress in the general curriculum. For students with disabilities who participate in the general statewide assessment program, consistent with the provisions of Rule 6A-1.0943, FAC., a statement of the remediation needed for the student to achieve a passing score on the statewide assessment, or for prekindergarten children, as appropriate, how the disability affects the student's participation in appropriate activities;

(b) A statement of measurable annual goals, including benchmarks or short term objectives related to meeting the student's needs that result from the student's disability to enable the student to be involved in and progress in the general curriculum or for preschool children, as appropriate, to participate in appropriate activities and meeting each of the student's other educational needs that result from the student's disability;

(c) A statement of the specially designed instruction and related services and supplementary aids and services to be provided to the student, or on behalf of the student, and a statement of the classroom accommodations, modifications or supports for school personnel that will be provided for the student to advance appropriately toward attaining the annual goals; to be involved and progress in the general curriculum in accordance with paragraph (7)(a) of this rule; to participate in extracurricular and other nonacademic activities; and to be educated and participate with other students with disabilities and nondisabled students in the activities described in this paragraph;

(d) An explanation of the extent, if any, to which the student will not participate with nondisabled students in the regular class and in the activities described in paragraph (7)(c);

(e) A statement of any individual accommodations in the administration of the state or district assessments of student achievement that are needed in order for the student to participate in state or district assessments. A parent must provide signed consent for a student to receive instructional modifications that would not be permitted on the statewide assessments and must acknowledge in writing that he or she understands the implications of such accommodations. Accommodations that negate the validity of a statewide assessment are not allowable in accordance with Section 1008.22(3)(c)6., Florida Statutes. If the IEP team determines that the student will not participate in the Florida Comprehensive Assessment Test (FCAT) or district assessment of student achievement or part of an assessment, a statement of why that assessment is not appropriate for the student and how the student will be assessed. If a student does not participate in the FCAT, the district must notify the student's parent and provide the parent with information regarding the implications of such nonparticipation in accordance with Section 1008.22(3)(c)6., Florida Statutes.

(f) The projected date for the beginning of the specially designed instruction, services, accommodations and modifications described in paragraph (7)(c) of this rule and the anticipated frequency, location, and duration of those services;

(g) A statement of how the student's progress toward the annual goals will be measured and how the student's parents will be regularly informed (at least as often as parents are informed of their nondisabled children's progress) of the student's progress toward the annual goals and the extent to which that progress is sufficient to enable the student to achieve the goals by the end of the year;

(h) During the student's eighth grade year or during the school year of the student's fourteenth birthday, whichever comes first, a statement of whether the student is pursuing a course of study leading to a standard diploma or a special diploma.

(i) Beginning by the student's fourteenth birthday or younger, if determined appropriate by the IEP team, including the student and the student's parents, and updated annually:

1. A statement of the student's desired post-school outcome which shall be developed through a student-centered process;

2. A statement of the student's transition service needs under the applicable components of the student's IEP that focuses on the student's courses of study, such as participation in advanced-placement courses or a vocational education program; and,

3. Consideration of instruction or the provision of information in the area of self-determination to assist the student to be able to actively and effectively participate in IEP meetings and self-advocate, if appropriate.

(j) Beginning by the student's sixteenth birthday or younger, if determined appropriate by the IEP team, including the student and the student's parents and updated annually and thereafter, a statement of needed transition services for the student including, if appropriate, a statement of the interagency responsibilities or any needed linkages.

(k) Beginning at least one (1) year before the student's eighteenth birthday, a statement that the student has been informed of his or her rights under Part B of the Individuals with Disabilities Education Act (IDEA) that will transfer from the parent to the student on reaching the age of majority, which is eighteen years of age. The transfer of these rights is described in subsection (10) of Rule 6A-6.03311, FAC.

(8) Transition services for students beginning at age sixteen (16), or younger, if determined appropriate by the IEP team.

(a) The coordinated set of activities described in paragraphs (7)(i) and (j) of this rule must be based on the student's needs, take into account the student's preferences and interests, and focus on the student's desired post-school outcome and shall include:

1. Activities in the areas of instruction, related services, community experiences, the development of employment, and other post-school adult living objectives; and

2. Acquisition of daily living skills and functional vocational evaluation, if appropriate.

(b) If an agency responsible for transition services, other than the school district, fails to provide the transition services described in the IEP, the school district shall reconvene the IEP team to identify alternative strategies to meet the transition objectives for the student set out in the IEP.

(c) Nothing in this part relieves any participating agency, including Vocational Rehabilitation Services, of the responsibility to provide or pay for any transition service that the agency would otherwise provide to students with disabilities who meet the eligibility criteria of that agency. When a student is provided services by Vocational

Rehabilitation Services or another agency, the Individual Plan for Employment or other agency plan should be coordinated with the development of the IEP as appropriate.

(d) The district shall identify an IEP team member or designee who will follow-up with agencies, as needed, and verify the provision of services by other agencies to the student and/or the student's parents as provided for in the IEP.

(e) If the IEP team determines that transition services are not needed as described in subparagraph (8)(a)1. of this rule, the IEP shall include a statement to that effect.

(9) Transition of children with disabilities from the infants and toddlers early intervention program to pre-kindergarten programs that provide specially designed instruction and related services operated by the school district.

(a) By the third birthday of a child participating in the early intervention program for infants and toddlers with disabilities, an IEP consistent with this rule or a family support plan consistent with Rule 6A-6.03029, FAC., must be developed and implemented.

(b) For the purpose of implementing the requirement of paragraph (9)(a) of this rule, each school district will participate in transition planning conferences arranged by the state lead agency for the infants and toddlers with disabilities early intervention programs.

(c) If the child's third birthday occurs during the summer, the child's IEP team shall determine the date when services under the IEP or family support plan will begin.

(10) Review and revision of the IEP. The school district shall ensure that the IEP team:

(a) Reviews the student's IEP periodically, but not less than annually, to determine whether the annual goals for the student are being achieved; and

(b) Revises the IEP as appropriate to address:

1. Any lack of expected progress toward the annual goals and in the general curriculum, if appropriate.

2. The results of any reevaluation conducted.

3. Information about the student provided to, or by, the parents, and

4. The student's anticipated needs or other matters.

5. Consideration of the factors described in subsection (6) of this rule.

6. The remediation of skills needed to obtain a passing score on the statewide assessment.

(c) Responds to parent's right to ask for revision, of the student's IEP or to invoke due process procedures in accordance with Rule 6A-6.03311(11), FAC., if the parent feels that the efforts required to provide specially designed instruction related services are not being made.

(11) IEP implementation and accountability. The school district, or other state agency that provides special education and related services either directly, by contract, or through other arrangements, is responsible for providing the specially

designed instruction and related services to students with disabilities in accordance with the students' IEPs. However, it is not required that the school district, teacher, or other person be held accountable if a student does not achieve the growth projected in the annual goals and benchmarks or objectives. An IEP must be in effect before specially designed instruction and related services are provided to an eligible student and is implemented as soon as possible following the IEP meeting.

(a) The student's IEP shall be accessible to each regular education teacher, special education teacher, related service provider, and other service provider who is responsible for its implementation.

(b) Each teacher and provider described in paragraph (11)(a) of this rule shall be informed of their specific responsibilities related to implementing the student's IEP and the specific accommodations, modifications, and supports that must be provided for the student in accordance with the IEP.

(c) The school board must make a good faith effort to assist the student to achieve the goals and objectives or benchmarks listed on the IEP.

(d) Nothing in this section limits a parent's right to ask for revisions of the child's IEP or to invoke due process procedures.

(12) Students with disabilities placed in private schools or community facilities through contractual arrangements by the school district, consistent with the requirements of Rule 6A-6.0361, FAC., and in consultation with the students' parents.

(a) If a student with a disability is placed in a private school by the school district, in consultation with the student's parents, the school district shall:

1. Ensure that the student has all of the rights of a child with a disability who is served by a school district.

2. Initiate and conduct meetings to develop, review, and revise an IEP for the student, in accordance with subsections (2) through (11) of this rule or for students ages three (3) through five (5), a family support plan in accordance with Rule 6A-6.03029, FAC.; and

3. Ensure the attendance of a representative of the private school at each meeting. If the representative cannot attend, the school district shall use other methods to ensure participation by the private school, including individual or conference telephone calls.

(b) If a student with a disability is placed in a private school by the school district in consultation with the student's parents and if IEP meetings are initiated and conducted by the private school, the school district's representative and the parents shall be involved in decisions about the IEP and shall agree to proposed changes in the IEP before those changes are implemented by the private school.

(c) Children with disabilities in private schools placed or referred by school districts. As provided in 34 CFR 300.400 and 300.402 apply only to children who are or have been



placed in or referred to a private school or facility by a school district as a means of providing special education and related services.

Specific Authority 1001.02(1)(2)(n), 1003.01(3)(a),(b), 1003.57(5), 229.053(1),(2)(i), 230.23(4)(m) FS. Law Implemented 1001.42(4)(l), 1003.01(3)(a),(b), 1003.57(5), 1011.62(1)(c),(e), 1001.03(8) +20.53(1)(b), 228.041(18),(19), 229.053(2)(i), 230.23(4)(m), 236.081(1)(e) FS., PL 105-17 (20 USC 1401, 1412, 1413, 1414, 1415). History--New 7-13-93, Amended

6A-6.030281 Development of Services Plans for Students with Disabilities Enrolled in Private School by their Parents and Provided with Specially Designed Instruction and Related Services by the Local School Board.

The provision of specially designed instruction and related services to eligible students with disabilities enrolled in private schools by their parents shall be consistent with the requirements of paragraph (3)(n) of Rule 6A-6.03411, FAC., and as described in the district's Policies and Procedures for the Provision of Specially Designed Instruction and Related Services for Exceptional Students document. The provision of these services shall be consistent, to the extent appropriate, with the following requirements:

(1) Each school board shall establish procedures which shall provide for parents, guardians, surrogate parents or persons acting in loco parentis to participate in decisions concerning the service plans. Such procedures shall include the following:

(a) Each district shall take the following steps to ensure that one (1) or both of the parents of the student is present at each services plan meeting or is afforded the opportunity to participate in each meeting:

1. Notifying parents of the meeting early enough to ensure that they will have an opportunity to attend; and
2. Scheduling the meeting at a mutually agreed on time and place.

(b) A written notice to the parent must indicate the purpose, time, and location of the meeting, and who, by title or position, will be attending. The notice must also include a statement informing the parents that they have the right to invite other individuals with special knowledge or expertise about their child.

1. If transition services will be provided to a student with a disability beginning at age fourteen (14), or younger, if determined appropriate by the services plan team, the notice must also indicate that a purpose of the meeting will be the development of a statement of the transition services needs of the student and indicate that the school district will invite the student.

2. If transition services will be provided to a student with a disability beginning at age sixteen (16), or younger, if determined appropriate by the services plan team, the notice must indicate that a purpose of the meeting is the consideration

of needed transition services for the student, indicate that the school district will invite the student, and indicate any other agency that will be invited to send a representative.

(c) If neither parent can attend, the school district shall use other methods to ensure parent participation, including individual or conference telephone calls.

(d) A meeting may be conducted without a parent in attendance if the school district is unable to obtain the attendance of the parents. In this case, the district must have a record of its attempts to arrange a mutually agreed on time and place such as:

1. Detailed records of telephone calls made or attempted and the results of those calls;
2. Copies of correspondence sent to the parents and any responses received; or
3. Detailed records of visits made to the parents' home or place of employment and the results of those visits.

(e) The district shall take whatever action is necessary to ensure that the parents and the student beginning at age 14, understand the proceedings at a meeting, which may include arranging for an interpreter for parents and students who are deaf or whose native language is a language other than English.

(f) The district shall give the parents a copy of the services plan at no cost to the parents.

(g) The district shall ensure that a representative of the private school attends each services plan meeting. If the private school's representative cannot attend, the district shall use other methods to ensure participation, including individual or conference calls.

(2) Services plan team participants. The services plan team shall include the following participants:

(a) The parents of the student in accordance with subsection (1) of this rule;

(b) At least one (1) regular education teacher of the student from the private school;

(c) At least one special education teacher of the student;

(d) A representative of the school district who is qualified to provide or supervise the provision of specially designed instruction to meet the unique needs of students with disabilities, is knowledgeable about the general curriculum, and is knowledgeable about the availability of resources of the school district. At the discretion of the school district, the student's special education teacher may be designated to also serve as the representative of the school district if the teacher meets the requirements described in this paragraph;

(e) An individual who can interpret the instructional implications of evaluation results, who may be a member of the team as described in paragraphs (2)(b)-(d) of this rule;

(f) At the discretion of the parent, the private school, or the school district, other individuals who have knowledge or special expertise regarding the student, including related

services personnel, as appropriate. The determination of the knowledge or special expertise of any such individual shall be made by the party who invited the individual to be a member of the services plan team;

(g) The student if appropriate. If the student does not attend the service plan meeting consistent with paragraph (2)(h) of this rule, the school district shall take other steps to ensure that the student's preferences and interests are considered.

(h) If transition services are to be provided, the student, beginning by the student's fourteenth birthday or younger, if determined appropriate by the services plan team, when the purpose of the meeting is to consider the student's transition service needs. If the student does not attend, the school district and the private school shall take other steps to ensure that the student's preferences and interests are considered.

(i) If transition services are to be provided, a representative of any other agency that may be responsible for providing or paying for transition services, when the purpose of the services plan meeting is to consider transition services. If an agency invited to send a representative to a meeting does not do so, the school district shall take other steps to obtain the participation of the other agency in the planning of any transition services.

(3) Timelines. Timelines for services plans shall include the following:

(a) Each private school student with a disability who has been designated to receive specially designed instruction and related services from the school district shall have a services plan that describes the services to be provided. This services plan, which has been reviewed, if appropriate, within the past year, must be in effect at the beginning of each school year for each eligible private school student with a disability.

(b) A services plan must be developed within thirty (30) calendar days following the determination of a student's eligibility and must be in effect before specially designed instruction and related services are provided.

(c) Meetings shall be held to develop, review, and revise the services plan. A meeting shall be held at least once every twelve (12) months to review each services plan and, as appropriate, revise its provisions in accordance with all aspects of this rule.

(4) Considerations in services plan development, review, and revision for private school students with disabilities. The services plan team shall consider the following in development, review, and revision of the services plan:

(a) The strengths of the student and the concerns of the parents for enhancing the education of their child;

(b) The results of the initial or most recent evaluation of the student;

(c) As appropriate, the results of the student's performance on any general state or district assessment;

(d) In the case of a student whose behavior impedes learning or the learning of others, if appropriate, strategies including positive behavioral interventions, and supports to address that behavior;

(e) In the case of a student with limited English proficiency, the language needs of the student as those needs relate to the student's services plan;

(f) In the case of a student who is blind or visually impaired, provision of instruction in Braille and the use of Braille unless the services plan team determines, after an evaluation of the student's reading and writing skills, needs (including future needs), and appropriate reading and writing media that instruction in Braille or the use of Braille is not appropriate for the student;

(g) The communication needs of the student, and in the case of a student who is deaf or hard of hearing, the student's language and communication needs, opportunities for direct communications with peers and professional personnel in the student's language and communication mode, academic level, and full range of needs, including opportunities for direct instruction in the student's language and communication mode; and

(h) Whether the student requires assistive technology devices and services. On a case-by-case basis, the use of school-district purchased assistive technology devices in a student's home or in other settings is required if the services plan team determines that the student needs access to those devices.

(5) Contents of the services plans for students with disabilities, enrolled in private schools, who are provided services by the school district. In collaboration with the parents and private school personnel of each student with a disability who is provided services from the school district, each district shall develop a services plan that must include with respect to services provided:

(a) A statement of the student's present levels of educational performance including how the student's disability affects the student's involvement and progress in the general curriculum or for preschool children, as appropriate, how the disability affects the child's participation in appropriate activities;

(b) A statement of measurable annual goals, including benchmarks or short term objectives related to meeting the student's needs that result from the student's disability to enable the student to be involved and progress in the general curriculum or for preschool children, as appropriate, to participate in appropriate activities and meeting each of the student's other educational needs that result from the student's disability;

(c) A statement of the specially designed instruction and related services and supplementary aids and services to be provided to the student, or on behalf of the student, and a statement of the program modifications or supports for school

personnel that will be provided for the student to advance appropriately toward attaining the annual goals; to be involved and progress in the general curriculum in accordance with paragraph (5)(a) of this rule; to participate in extracurricular and other nonacademic activities; and to be educated and participate with other students with disabilities and nondisabled students in the activities described in this paragraph;

(d) An explanation of the extent, if any, to which the student will not participate with nondisabled students in the regular class and in the activities described in paragraph (5)(c) of this rule;

(e) The projected date for the beginning of the services, accommodations and modifications described in paragraph (5)(c) of this rule and the anticipated frequency, location, and duration of those services;

(f) A statement of how the student's progress toward the annual goals will be measured and how the student's parents will be regularly informed (at least as often as parents are informed of their nondisabled children's progress) of the student's progress toward the annual goals and the extent to which that progress is sufficient to enable the student to achieve the goals by the end of the year;

(g) If transition services are provided, the requirements of paragraphs (7)(i)-(j) and subsection (8) of Rule 6A-6.03028, FAC., regarding transition services must be met.

(h) Beginning at least one year before the student's eighteenth birthday, a statement that the student has been informed of rights under Part B of the Individual with Disabilities Education Act that will transfer from the parent to the student on reaching the age of majority (eighteen (18) years of age). The transfer of these rights are described in subsection (10) of Rule 6A-6.03311, FAC.

(6) Review and revision of the services plan. The school district shall ensure that the services plan team:

(a) Reviews the student's services plan periodically, but not less than annually, to determine whether the annual goals for the student are being achieved; and

(b) Revises the services plan, as appropriate, to address:

1. Any lack of expected progress toward the annual goals and in the general curriculum, if appropriate,

2. The results of any reevaluation conducted,

3. Information about the student provided to, or by, the parents, and

4. The student's anticipated needs or other matters and,

5. Consideration of the factors described in subsection (4) of this rule.

(7) Services plan implementation. A services plan must be in effect before specially designed instruction and related services are provided by the local school district to an eligible student and must be implemented as soon as possible following the services plan meeting.

(a) The student's services plan shall be accessible to each regular education teacher, special education teacher, related service provider, and other service provider who is responsible for its implementation.

(b) Each teacher and provider described in paragraph (7) (a) of this rule shall be informed of specific responsibilities related to implementing the student's services plan and the specific accommodations, modifications, and supports that must be provided for the student in accordance with the services plan.

Specific Authority 1001.02(1),(2)(n), 1003.01(3)(a),(b), 1003.57(5) FS. Law Implemented 1001.42(4)(l), 1003.01(3)(a),(b), 1003.57(5), 1011.62(1)(c), 1001.03(8) FS., PL 105-17 (20 USC 1401, 1412, 1413, 1414, 1415). History—New \_\_\_\_\_.

6A-6.03029 Development of Family Support Plans for Children with Disabilities Ages Birth Through Five Years.

Parents are a child's first teachers and must be partners with school and school district personnel to identify their specific concerns and priorities of the family related to enhancing their child's development. Procedures for developing family support plans shall be set forth in each district's Policies and Procedures for the Provision of Specially Designed Instruction and Related Services to Special Programs and Procedures for Exceptional Students document consistent with the following requirements:

(1) No change.

(2) Use of family support plans. For children with disabilities ages birth through two (2) years, a family support plan consistent with the requirements of Subsections (3), (4), (6), (8), and (9) of this rule shall be used. For children with disabilities ages three (3) through five (5) years, school districts may utilize, at the option of the school district and with written parental consent, a family support plan, consistent with the requirements of Subsections (3), (5), (7), and (9) of this rule, in lieu of an individual educational plan (IEP). Parents must be provided with a detailed explanation of the difference between a family support plan and an IEP with parental consent in lieu of an individual educational plan.

(3) Contents. The family support plan shall be in writing and include:

(d) A statement of the specific early intervention services, or for children ages three (3) through five (5) years, the specially designed instruction and related services, necessary to meet the unique needs of the child and the family including the frequency, intensity, and the method of delivering services;

(e) A statement of the natural environments in which early intervention services, or for children ages three (3) through five (5) years, specially designed instruction and related services are to be provided, and a justification of the extent, if any, to which the services will not be provided in a natural environment;

(4) No change.

(5) Requirements ~~Timelines~~ for family support plans for children with disabilities ages three (3) through five (5). These family support plans ~~timelines~~ shall be consistent with the requirements of Rule 6A-6.03028(3)-(6)(8), (10), and (11), FAC.

(6) Participants for family support plans for children with disabilities ages birth through two (2) years. The participants shall include the following:

(a) Each initial meeting and each annual meeting to evaluate the family support plan must include the following participants:

1. through 4. No change.

5. For initial family support plan meetings, at least two professionals from two different disciplines directly involved in conducting the evaluations and assessments. For subsequent family support plan meetings, at least two professionals from two different disciplines; A person or persons directly involved in conducting the evaluations and assessments; and

(7) through (8) No change.

(9) Nonpublic schools ~~and integration of plans~~. For children with disabilities ages birth through five (5), the procedures described in Rule 6A-6.03028(6) and (8)-(9), (12), FAC., shall be followed.

Specific Authority 1001.02(1),(2)(n), 1003.01(3)(a),(b), 1003.21(1)(e), 1003.57(5), 229.053(1),(2)(i), 230.23(4)(m), 236.081(1)(e); FS. Law Implemented 1001.42(4), 1003.01(3)(a),(b), 1003.21(1)(e), 1003.57(5), 1011.62(1)(c), 1001.03(8), 228.041(18),(19), 229.053(2)(i), 230.23(4)(m), 236.081(1)(e) FS., P.L. 105-17 (20 USC 1436). History-New 7-13-93, Amended 1-4-94, \_\_\_\_\_.

6A-6.03032 Procedural Safeguards for Children with Disabilities Ages Birth through Two Years ~~with Disabilities~~. Providing parents with information regarding their rights under this rule is critical to ensuring that their specific concerns and the priorities of the family related to enhancing their child's development are addressed. The establishment and maintenance of policies and procedures to ensure that children with disabilities, ages birth through two years, and their parents are provided with procedural safeguards is required in order for school boards to receive state funds for the provision of these services. The school board's policy and procedures for procedural safeguards shall be set forth in the district's Policies and Procedures for the Provision of Specially Designed Instruction and Related Services for Special Programs and Procedures for Exceptional Students document and shall include adequate provisions for the following:

(1) Prior notice. Parents shall be provided prior written notice a reasonable time before a school district proposes, or refuses, to initiate or change the identification, evaluation, or placement of the child, or the provision of appropriate early intervention services to the child and the child's family. The procedures described in Rule 6A-6.03311(1), FAC., shall be followed.

(2) Content of notice. ~~The procedures described in Rule 6A-6.03311(2)(a) (b), FAC., shall be followed.~~ The content of the notice must be in sufficient detail to inform the parents about ~~shall include:~~

(a) ~~The A~~ full explanation of all the procedural safeguards available to the parents as provided in this rule ~~Rules 6A-6.0333 and 6A-6.03032, FAC., and Section 1003.57(5), Florida Statutes.~~

(b) ~~The A~~ description of the action proposed or refused by the district and the reasons for taking the action.

(c) The state complaint procedures, including how to file a complaint with the Department of Health, Children's Medical Services, the lead agency for this program, and the timelines under those procedures.

(3) Native language.

(a) The notice described in subsection (2) of this rule must be:

1. Written in language understandable to the general public.

2. Provided in the native language of the parents, unless it is clearly not feasible to do so.

(b) If the native language or other mode of communication of the parents is not a written language, the school district shall take steps to ensure that:

1. The notice is translated orally or by other means to the parents in the parents' native language or other mode of communication;

2. The parents understand the notice, and;

3. There is written evidence that the requirements of subsection (3) of this rule have been met.

(c) If a parent is deaf or blind, or has no written language, the mode of communication must be that normally used by the parent, (such as sign language, Braille, or oral communication).

~~(4)(3) Parent consent. The procedures described in Rule 6A-6.03311(3)(a)-(e), FAC., shall be followed except that the procedures described in Rule 6A-6.03311(3)(e)1., 2., FAC., may be initiated by the school district only if the parent has refused to consent to the initial evaluation.~~

(a) Written parental consent must be obtained before:

1. Conducting the initial evaluation and assessment of a child; and

2. Initiating the provision of early intervention services.

(b) If consent is not given, the school district shall make reasonable efforts to ensure that the parent:

1. Is fully aware of the nature of the evaluation and assessment or the services that would be available; and

2. Understands that the child will not be able to receive the evaluation and assessment or services unless consent is given.

(5) Examination of records. The procedures described in paragraphs (4)(a)-(c) of Rule 6A-6.03311, FAC., shall be followed.

(6) Mediation. Parents shall be provided the opportunity to resolve disputes involving their child through mediation in accordance with procedures established by the Department of Health, Children’s Medical Services, the lead agency for this program.

(7)(4) Due process hearings. The procedures described in subsection (11) of Rule 6A-6.0331(5), FAC., shall be followed with the exception that the school district may not initiate a hearing to challenge the parents’ decision regarding the placement or the provision of early intervention services for their child.

(5) Examination of records. The procedures described in Rule 6A-6.0331(7), FAC., shall be followed.

Specific Authority 1001.02(1)(2)(n), 1003.01(3)(a),(b), 1003.21(1)(e), 1003.57(5) +20.53(1)(b), 228.041(18)(19), 230.23(4)(m), 232.01(1)(e) FS. Law Implemented 1001.42(4)(l), 1003.01(3)(a)(b), 1003.57(5), 1003.21(1)(e), 1001.03(8), 1011.62(1)(c) +20.53(1)(b), 228.041(18)(19), 230.23(4)(m), 232.01(1)(e) FS., P.L. 105-17, 20 USC 1439, History–New 1-4-94, Amended \_\_\_\_\_.

(Substantial rewording of Rule 6A-6.0331 follows. See Florida Administrative Code for present text.)

6A-6.0331 Identification and Determination of Eligibility of Eligible Special Programs for Exceptional Students for Specially Designed Instruction.

The state’s goal is to provide full educational opportunity to all students with disabilities ages three (3) through twenty-one (21). Local school boards have the responsibility to ensure that students suspected of having a disability or being gifted are identified, evaluated, and provided appropriate specially designed instruction and related services if it is determined that the student meets the eligibility criteria specified in Rules 6A-6.03011 through 6A-6.03023 and 6A-6.03027, FAC. Additionally, local school boards that elect to serve children with disabilities below the age of three (3) years in collaboration with the Part C Early Intervention Program have the responsibility to ensure that infants and toddlers suspected of having a disability are identified, evaluated, and provided appropriate early intervention services if it is determined that the child meets the eligibility criteria specified in subparagraph (2)(a)1., of Rule 6A-6.03026, FAC. The procedures and criteria for identification, evaluation, and determination of eligibility of exceptional students by local school boards shall be set forth in the school district’s Policies and Procedures for the Provision of Specially Designed Instruction and Related Services for Exceptional Students document consistent with the following requirements.

(1) Prekindergarten Children. For children below entry age to kindergarten, the activities specified in subsection (2) of this rule are not required. The following requirements apply to this population of children.

(a) For children being considered for eligibility as an infant or toddler with a disability, prior to determining eligibility, existing medical, psychological, social and other related data must be reviewed in addition to the completion of a vision and hearing screening.

(b) For children being considered for eligibility for school district programs for children ages three to kindergarten entry age, prior to referral for evaluation the following activities shall occur:

1. A review of existing social, psychological, and medical data with referral for a health screening when the need is indicated; and

2. A screening for vision, hearing, and communication functioning with referral for complete evaluations when the need is indicated.

(2) Kindergarten Through Grade Twelve Students. It is the local school board’s responsibility to address through appropriate interventions and, to the extent possible, resolve a student’s learning or behavioral areas of concern in the general education environment prior to a referral for evaluation to determine eligibility as a student with a disability. Notwithstanding the provisions of paragraphs 6A-6.03011(3)(a)-(e), 6A-6.03016(5)(a)-(f), and 6A-6.03018(3)(a)-(b), FAC., prior to the submission of a referral for evaluation to determine eligibility as a student with a disability, the activities in paragraphs (2)(a)-(f) of this rule must be completed. The general education interventions described in paragraph (2)(f) of this rule are not required for students who demonstrate speech disorders, severe cognitive, physical or sensory disorders, or severe social/behavioral deficits that require immediate intervention to prevent harm to the student or others. The activities described in paragraphs (2)(a)-(f) are not required for students considered for eligibility for specially designed instruction for students who are homebound or hospitalized as defined in Rule 6A-6.03020, FAC.

(a) Parent conferences. Two (2) or more conferences concerning the student’s specific learning or behavioral areas of concern shall be held and shall include the parents, the student’s regular education teacher, and may include other educators with special expertise in the areas of concern such as special education teachers, administrators, and student services personnel. The initial conference with the parents must include discussion of the student’s learning or behavioral areas of concerns, the general education interventions planned, and the anticipated effects of the interventions. Other conferences must include discussion of the student’s responses to interventions and anticipated future actions to address the student’s learning and/or behavioral areas of concern.

(b) Anecdotal records or behavioral observations made by at least two (2) persons, one (1) of whom is the student's classroom teacher, in more than one (1) situation which cite the specific behaviors indicating the need for a referral for evaluation shall be reviewed.

(c) Social, psychological, medical, and achievement data in the student's educational records shall be reviewed;

(d) Attendance records shall be reviewed, and where appropriate, investigation of reasons for excessive absenteeism shall be conducted.

(e) Screening for speech, language, hearing, and vision for the purpose of ruling out sensory deficits that may interfere with the student's academic and behavioral progress shall be conducted. Notwithstanding the provisions of Rules 6A-6.03011 through 6A-6.03018, 6A-6.03021 through 6A-6.03023, and 6A-6.03027, FAC., screening for speech, language, hearing, and vision screening shall be required prior to conducting an evaluation to determine the student's eligibility as a student with a disability.

(f) A minimum of two (2) general education interventions or strategies, shall be attempted. These general education interventions or strategies may include: supplemental academic instruction; change in student's class schedule or teacher; change in instructional strategies and techniques; interventions provided by student services personnel or state or community agency. For students with academic learning problems, the general education interventions must include the use of an academic improvement plan, as required by Section 1008.25(4)(a)-(c), Florida Statutes, and the provision of remedial instruction for a reasonable period of time. Pre- and post-intervention measures of the academic and/or behavioral areas of concern must be conducted to assist in identifying appropriate interventions and measuring their effects.

(3) Referral. Referral is the process whereby a written request is made for a formal individual evaluation to determine a student's eligibility for specially designed instruction and related services. Prior to a referral for students suspected of having a disability, school personnel must make one of the following determinations and include appropriate documentation in the student's educational record:

(a) For students who demonstrate speech disorders, severe cognitive, physical or sensory disorders, or severe social/behavioral deficits, the activities described in paragraph (2)(f) of this rule would be inappropriate in addressing the immediate needs of the student;

(b) The activities, as described in paragraph (2)(f) of this rule, have been implemented but were unsuccessful in addressing the areas of concern for the student; or

(c) The parents of the child receiving general education interventions requested, prior to the completion of these interventions, that the school conduct an evaluation to determine the student's eligibility for specially designed instruction and related services as a student with a disability. In

this case, the activities described in paragraphs (2)(a)-(f) must be completed concurrently with the evaluation but prior to the determination of the student's eligibility for specially designed instruction.

(4) Student evaluation.

(a) The school board shall be responsible for the medical, physical, psychological, social, and educational evaluations of students, who are suspected of being exceptional students, by competent evaluation specialists. Evaluation specialists shall include, but not be limited to, persons such as physicians, school psychologists, psychologists, speech/language pathologists, teachers, audiologists, and social workers with each such person licensed in the professional's field as evidenced by a valid license or certificate to practice such a profession in Florida. Educational evaluators not otherwise covered by a license or certificate to practice a profession in Florida shall either hold a valid Florida teacher's certificate or be employed under the provisions of Rule 6A-1.0502, FAC.

1. Notwithstanding the provisions of subparagraph (6)(a)2., of Rule 6A-6.03016, FAC., and subparagraph (4)(a)1., of Rule 6A-6.03011, FAC., tests of intellectual functioning shall be administered and interpreted by a professional person qualified in accordance with Rule 6A-4.0311, FAC., or licensed under Chapter 490, Florida Statutes.

2. Notwithstanding the provisions of subparagraph 6A-6.03011(4)(a)2., FAC., the standardized assessment of adaptive behavior of students suspected of having a mental handicap, shall include parental input regarding their child's adaptive behavior.

(b) The school board shall ensure that students suspected of having a disability are evaluated within a period of time, not to exceed sixty (60) school days of which the student is in attendance, or for pre-kindergarten children not to exceed sixty (60) school days after:

1. The completion of the activities required in subsection (2) of this rule;

2. The receipt of the referral for evaluation; and

3. The receipt of parental consent for the evaluation.

(c) Circumstances that cause a delay, so that the evaluation cannot be completed within the timeframe required by paragraph (4)(b) of this rule, shall be documented in the student's educational record and communicated to the student's parents.

(d) The school board shall ensure that students suspected of being gifted are evaluated within a reasonable period of time.

(e) Tests and other evaluation materials used to assess a student shall be selected and administered so as not to be discriminatory on a racial or cultural basis and shall be provided and administered in a student's native language or other mode of communication, unless it is clearly not feasible to do so.

(f) Materials and procedures used to assess a student with limited English proficiency shall be selected and administered to ensure they measure the extent to which the student has an exceptionality and needs specially designed instruction and related services rather than measuring the student's English language skills.

(g) Any standardized tests that are given shall have been validated for the specific purpose for which they are used and shall be administered by trained and knowledgeable personnel in accordance with any instructions provided by the producer of the tests.

(h) If an assessment tool is not conducted under standard conditions, a description of the extent to which it varied from standard conditions shall be included in the evaluation report.

(i) Tests and other evaluation materials shall include those tailored to assess specific areas of educational need and not merely those that are designed to provide a single general intelligence quotient.

(j) Tests shall be selected and administered so as to best ensure that if a test is administered to a student with impaired sensory, manual, or speaking skills, the test results accurately reflect the student's aptitude or achievement level or whatever other factors the test purports to measure, rather than reflecting the student's sensory, manual, or speaking skills unless those are the factors the test purports to measure.

(k) No single assessment shall be used as the sole criterion for determining whether a student is a student with a disability or is a student who is gifted and for determining appropriate educational services for the student.

(l) The school district shall use technically sound instruments that may assess the relative contribution of cognitive and behavioral factors, in addition to physical or developmental factors.

(m) The school district shall use assessment tools and strategies that provide relevant information that directly assists persons in determining the educational needs of the student.

(n) In evaluating a student suspected of having a disability:

1. A variety of assessment tools and strategies shall be used to gather relevant functional and developmental information about the student including information:

a. Provided by the parents;

b. Related to enabling the student to be involved in and progress in the general education curriculum (or for a prekindergarten child to participate in appropriate activities);

c. That may assist in determining whether the student is a student with a disability; and

d. That may assist in the writing of the individual educational plan or family support plan.

2. The student shall be assessed in all areas of the suspected disability, including, if appropriate, health, vision, hearing, social and emotional status, general intelligence, academic performance, communicative status, and motor abilities.

3. The evaluation shall be sufficiently comprehensive to identify all of the student's specially designed instruction and related services needs, whether or not commonly linked to the disability category in which the student is identified.

(5) Determination of eligibility for exceptional students.

(a) A minimum of three (3) professional personnel, one (1) of whom shall be the district administrator of exceptional student education or designee, shall meet as a staffing committee. The parents of a student being considered for eligibility as a student with a disability shall be invited and encouraged to participate as equal members of the staffing committee. Additional personnel may be involved in determining eligibility by providing information or by attending staffing meetings.

(b) In interpreting evaluation data the staffing committee shall:

1. Draw upon information from a variety of sources, including aptitude and achievement tests, parent input, student input as appropriate, teacher recommendations, physical condition, social or cultural background, and adaptive behavior;

2. Ensure that information obtained from all of these sources is documented and carefully considered; and

3. Determine eligibility in accordance with the criteria specified in Rules 6A-6.03011 through 6A-6.03019, FAC., Rules 6A-6.03020 through 6A-6.03027, FAC., and Rules 6A-6.03030 through 6A-6.03031, FAC., and the procedures in subparagraphs (3)(f)1. and 2., of Rule 6A-6.03411, FAC.

(c) If a determination is made that a student has a disability and needs specially designed instruction and related services, an individual educational plan (IEP) shall be developed for the student in accordance with Rule 6A-6.03028, FAC. For children ages three (3) through five (5) years, a family support plan (FSP) may be developed, in accordance with Rule 6A-6.03029, FAC. in lieu of an IEP.

(d) A student may not be determined eligible as a student with a disability if the determinant factor is lack of instruction in reading or math or limited English proficiency or lack of attendance for a student of compulsory school attendance age and the student does not otherwise meet the eligibility criteria specified in Rules 6A-6.03011 through 6A-6.03018, and 6A-6.03020 through 6A-6.03027, FAC.

(e) A student may not be denied eligibility as a student who is gifted if the determinant factor is limited English proficiency.

(f) For students identified as gifted, an educational plan (EP) in accordance with Rule 6A-6.030191, FAC, shall be developed.

(g) The school district shall provide a copy of the evaluation reports and the documentation of the eligibility determination to the parents at no cost.

(6) Determination of needed evaluation data for a student suspected of having a disability. As part of an initial evaluation, if appropriate, and as part of any reevaluation, a group that includes the IEP team participants as described in subsection (4) of Rule 6A-6.03028, FAC., and other qualified professionals, as appropriate, take the following actions:

(a) Review existing evaluation data on the student, including:

1. Evaluations and information provided by the student's parents and the student as appropriate;

2. Current classroom-based assessments and observations; and

3. Observations by teachers and related services providers.

(b) Identify, on the basis of that review and input from the student's parents and the student as appropriate, what additional data, if any, are needed to determine the following:

1. Whether the student has a particular disability, as defined in Section 1003.01(3)(a), Florida Statutes, or in the case of reevaluation, whether the student continues to have a disability;

2. The present levels of performance and educational needs of the student;

3. Whether the student needs specially designed instruction and related services, or in the case of reevaluation, whether the student continues to need specially designed instruction and related services; and

4. Whether any additions or changes to the specially designed instruction and related services are needed to enable the student to meet the measurable annual goals set out in the student's IEP and to participate, as appropriate, in the general curriculum.

(c) May conduct its review without a meeting.

(d) The school district shall administer tests and other evaluation materials as may be needed to produce the data identified in subsection (6) of this rule.

(e) If the determination under paragraphs (6)(a)-(b) of this rule is that no additional data are needed to determine whether the student continues to be a student with a disability, the school district shall notify the student's parents of:

1. That determination and the reasons for the determination; and,

2. The right to request an evaluation to determine whether the student continues to be an eligible student with a disability. The school district is required to conduct the assessment described in subsection (4) of this rule if requested to do so by the student's parents.

(7) Reevaluation. The reevaluation of each student with a disability is conducted, in accordance with paragraphs (4)(a) and (4)(e)-(n) and subsection (6) of this rule, at least once every three (3) years or more frequently if conditions warrant a

reevaluation, in accordance with Rules 6A-6.03011 through 6A-6.03018 and 6A-6.03020, 6A-6.03022, 6A-6.03023, and 6A-6.03027, FAC., or if the student's parent or teacher requests a reevaluation, or prior to the determination that the student is no longer a student with a disability in need of specially designed instruction.

(a) The results of any testing administered during the reevaluation process shall be considered by the IEP team including the parent, when reviewing and, as appropriate, revising the student's IEP.

(b) The IEP team, including the parent, and other qualified professionals, as appropriate, shall determine that the student is no longer a student with a disability based on the results of the reevaluation process.

(c) Reevaluation is not required for a student before the termination of eligibility due to graduation with a standard diploma or exiting from school upon reaching the student's twenty-second birthday.

(8) Each school district shall designate a staff member as administrator of exceptional student education who shall be responsible for the following:

(a) Coordinating all school district services for exceptional students;

(b) Reviewing the eligibility determinations of staffing committees for exceptional students in accordance with the procedures and criteria outlined in Policies and Procedures for the Provision of Specially Designed Instruction and Related Services for Exceptional Students developed pursuant to Rule 6A-6.03411, FAC.

(c) Ensuring that parents have been appropriately informed of their child's eligibility determination and their procedural safeguards in accordance with Rules 6A-6.03311, 6A-6.03032, and 6A-6.03313, FAC.

(d) Informing, in writing, the appropriate school principal of the student's eligibility for specially designed instruction and related services; and

(e) Implementing the district's policies, as required by Rule 6A-6.03411, FAC.

(9) The administrator of exceptional student education is authorized to delegate the responsibilities in paragraphs (8)(b)-(d) of this rule.

Specific Authority 1001.02(1),(2)(n), 1003.01(3)(a),(b), 1003.57(5) 120.53(1)(b), 229.053(1),(2)(i), 230.23(4)(m) FS. Law Implemented 1001.42(4)(l) 1003.01(3)(a)-(b), 1001.02(2)(n), 1003.57(5) 120.53(1)(b), 228.041(18),(19), 229.053(2)(i), 230.23(4)(m)4., 236.081(1)(e) FS. History—New 6-17-74, Repromulgated 12-5-74, Amended 7-1-77, 3-28-78, 7-12-78, 8-31-78, 11-29-78, 10-7-81, 7-13-83, 6-2-85, Formerly 6A-6.331, Amended 7-13-93, 1-2-95, c.f. P.L. 105-17, 20 USC 1401; 1412, 1413, 1414, 1415, 94-142, 20 USC 1401 (19); 1412 (2)(b), (4), (6); 1413 (a)(4)(A); 1414 (a)(5); Federal Register, Volume 42, Number 163, Regulations 121a.345 and 121a.348.



(Substantial rewording of Rule 6A-6.03311 follows. See Florida Administrative Code for present text.)

6A-6.03311 Procedural Safeguards for ~~Exceptional~~ Students with Disabilities.

Providing parents with information regarding their rights under this rule is critical to ensuring that they have the opportunity to be partners in the decisions regarding their children. It is also critical that local school boards provide information on these rights to appropriate district and school personnel so that the needs of the students with disabilities can be identified and appropriately met. Parents and school district personnel are encouraged to use methods such as mediation or the state complaint process described in subsections (5) and (6) of this rule respectively, to resolve disagreements regarding the provision of specially designed instruction and related services to students with disabilities. The establishment and maintenance of policies and procedures to ensure that students with disabilities, as defined in Section 1003.01(3)(a), Florida Statutes, and their parents are provided procedural safeguards with respect to the provision of a free appropriate public education is required in order for school boards to receive state and federal funds for the provision of specially designed instruction and related services to these students. The school board policy and procedures for procedural safeguards shall be set forth in accordance with Rule 6A-6.03411, FAC., and shall include adequate provisions for the following:

(1) Prior notice. The school district shall provide parents with prior written notice a reasonable time before any proposal or refusal to initiate or change the identification, evaluation, educational placement of the student or the provision of a free appropriate public education to the student. Graduation from high school with a regular diploma constitutes a change in placement, requiring written prior notice.

(a) The prior notice to the parents shall be written in language understandable to the general public and shall be provided in the native language or other mode of communication commonly used by the parents unless such communication is clearly not feasible to do so.

(b) If the parents' mode of communication is not a written language, the school district shall ensure:

1. That the notice is translated orally or by other means to the parents in their native language or other mode of communication;

2. That the parents understand the content of the notice; and

3. That there is written documentation that the requirements of subparagraphs (1)(b)1. and (1)(b)2. of this rule have been met.

(c) The notice to the parents shall include:

1. A description of the action proposed or refused by the district, an explanation of why the district proposes or refuses to take the action, and a description of any other options the district considered and the reasons why those options were rejected;

2. A description of each evaluation procedure, test, record, or report the district used as a basis for the proposed or refused action;

3. A description of any other factors that are relevant to the district's proposal or refusal;

4. A statement that the parents of a child with a disability have protections under the procedural safeguards specified in this rule;

5. The means by which a copy of a description of the procedural safeguards can be obtained; and

6. Sources for parents to contact to obtain assistance understanding their procedural safeguards specified in this rule.

(2) Provision of Procedural Safeguards to Parents.

(a) Parents must be provided a copy of their procedural safeguards which provides a full explanation of the provisions of subsections (1)-(12) of this rule relating to:

1. Prior written notice;

2. Provision of the procedural safeguards;

3. Informed parental consent;

4. Opportunity to examine records and participate in meetings;

5. Mediation;

6. State complaint procedures, including a description of how to file a complaint and the timelines under these procedures;

7. Independent educational evaluation;

8. Discipline procedures;

9. Placement of student with disabilities in private school by their parents when the provision of free appropriate public education is at issue;

10. Transfer of rights at the age of majority;

11. Due process hearings, including the student's placement during the pendency of due process proceedings and requirements for disclosure of evaluation results and recommendations; and

12. Attorney's fees;

13. Civil Action;

14. Placement in an interim alternative educational setting;

15. Unilateral placement by parents of children in private schools at public expense.

(b) A copy of the procedural safeguards must be available to the parents of a child with a disability and must be given to the parents, at a minimum:

1. Upon initial referral for evaluation;

2. Upon refusal of a parent's request to conduct an initial evaluation;

3. Upon each notification of an IEP meeting:

4. Upon consent for reevaluation of the student; and

5. Upon receipt of a request for a due process hearing by either the school district or the parent in accordance with subsection (11) of this rule.

(3) Informed parental consent.

(a) Parents shall be fully informed of all information relevant to the activity for which consent is sought in his or her native language or other mode of communication unless it is clearly not feasible to do so.

(b) Parents shall understand and agree in writing to the carrying out of the activity for which consent is sought, and the consent describes that activity and list the records, if any, that will be released and to whom.

(c) Written parental consent shall be obtained prior to conducting an initial individual evaluation to determine eligibility, prior to initial provision of specially designed instruction and related services to a student with a disability, and prior to conducting a reevaluation for students with disabilities except as provided in paragraph (3)(e) of this rule. Consent for initial evaluation may not be construed as consent for initial placement for receiving specially designed instruction and related services.

(d) School districts shall document their attempts to secure consent from the parent as required by paragraphs (3)(a) and (c) of this rule. If consent is not obtained, and the school district maintains that such services are required in order for the student to be provided a free appropriate public education, school district personnel may use the mediation procedures as described in subsection (5) of this rule or may request a hearing as provided in subsection (11) of this rule. The district may evaluate or initially provide specially designed instruction and related services to the student without the parent's consent only if an administrative law judge provides for such in the final decision in a due process hearing held in accordance with subsection (11) of this rule.

(e) Parental consent is required for reevaluation except when the school district can demonstrate that it has taken reasonable measures, consistent with those described in paragraph (3)(d) of Rule 6A-6.03028, FAC., to obtain that consent and the student's parents have failed to respond.

(f) Parental consent is voluntary and may be revoked at any time before the action occurs.

(g) A school district can not use a parent's refusal to consent to one service or activity under subsection (3) of this rule to deny the parent or the student any other service, benefit, or activity. Parents must be provided prior written notice, as defined by subsection (1) of this rule prior to any proposal or refusal to initiate or change the identification, or educational placement of the student, or the provision of a free appropriate public education to the student after the initial provision of specially designed instruction.

(h) Parental consent is not required before:

1. Reviewing existing data as part of an evaluation or reevaluation; or

2. Administering a test or other evaluation that is administered to all students unless, before administration of that test or evaluation, consent is required of parents of all students.

(4) Parents' opportunity to examine records and participate in meetings.

(a) The parents of a child with a disability shall be afforded an opportunity to inspect and review their child's educational records including all records related to the identification, evaluation, and educational placement of the child and the provision of a free appropriate public education to the child in accordance with Rule 6A-1.0955, FAC., Section 1002.22, Florida Statutes, 34 CFR 300.569, 300.571, and 300.572, and this rule.

(b) The right to inspect and review education records under this rule includes the right to have a representative of the parent inspect and review the records.

(c) The school district must inform parents when personally identifiable information collected, maintained, or used is no longer needed to provide educational services to their child. This information must be destroyed at the request of the parent. However, a permanent record of a student's name, address, and phone number, his or her grades, attendance record, classes attended, grade level completed, and year completed may be maintained without time limitation.

(d) The parents of a child with a disability must be afforded an opportunity to participate in meetings with respect to the identification, evaluation, educational placement of their child or the provision of a free appropriate public education to their child. Parents shall be provided notice of such meetings early enough to ensure that they will have an opportunity to attend. The written notice to the parents must include the purpose, time, location of the meeting, and who, by title or position, will be attending. The notice must also include a statement informing the parents that they have the right to invite individuals with special knowledge or expertise about their child.

(5) Mediation. The Department of Education shall provide

(e) A meeting does not include informal or unscheduled conversations involving school district personnel and conversations on issues such as teaching methodology, lesson plans, or coordination of service provision, if those issues are not addressed in the student's individual educational plan. A meeting also does not include preparatory activities that the school district personnel engage in to develop a proposal or response to a parent proposal that will be discussed at a later meeting, parents of children with disabilities and school district personnel the opportunity to resolve disputes involving any matter related to a proposal or refusal to initiate or change the identification, evaluation, educational placement of the

student or the provision of a free appropriate public education to the student through a mediation process. To promote the resolution of disputes, both parties should consider limiting the number of participants in a mediation session.

(a) Requirements. The mediation process must:

1. Be voluntary on the part of both parties;  
2. Not be used to deny or delay a parent's right to a due process hearing under subsection (11) of this rule or any other rights under this rule;

3. Be conducted by a qualified and impartial mediator who is trained in effective mediation techniques.

(b) The Department of Education shall maintain a list of individuals who are qualified mediators and knowledgeable in laws and regulations relating to the provision of special education and related services.

(c) If a mediator is not selected on a random or rotational basis from the list described in paragraph (5)(b) of this rule, both the parent and the school district must be involved in selecting the mediator and agree with the selection of the individual who will mediate.

(d) The Department of Education shall bear the cost of the mediation process described in subsection (5) of this rule.

(e) Each session in the mediation process must be scheduled in a timely manner and must be held in a location that is agreeable to both the parent and the school district.

(f) An agreement reached by the parent and the school district to settle the dispute in the mediation process must be set forth in a written mediation agreement.

(g) Discussions that occur during the mediation process must be confidential and may not be used as evidence in any subsequent due process hearings or civil proceedings. Both the parent and the school district may be required to sign a confidentiality pledge prior to the commencement of the mediation process.

(h) Impartiality of the Mediator. An individual who serves as a mediator:

1. May not be an employee of any school district or any state agency that receives Individuals with Disabilities Education Act funds through the Department of Education.

2. Must not have a personal or professional conflict of interest.

3. Is not an employee of a school district, or state agency solely because he or she is qualified as a mediator and is paid by the Department of Education to serve as a mediator.

(6) State Complaint Procedures. The Department of Education shall provide parents and other interested persons the opportunity to resolve allegations that a school district has violated state or federal requirements regarding the education of students with disabilities through the establishment of state complaint procedures. The Department of Education shall disseminate to parents and other interested individuals,

including the parent training and information centers, protection and advocacy agencies, and independent living centers, its state complaint procedures.

(a) Within sixty (60) calendar days after a complaint is filed under the provisions of this rule, the Department of Education shall:

1. Carry out an independent on-site investigation, if the Department of Education determines that an investigation is necessary;

2. Give the complainant the opportunity to submit additional information, either orally or in writing, about the allegations in the complaint;

3. Review all relevant information and make an independent determination as to whether the school district is violating a state or federal requirement regarding the education of students with disabilities;

4. Issue a written decision to the complainant that addresses each issue presented in the complaint and contains findings of fact, conclusions, and the reason(s) for the Department of Education's final decision; and

5. Extend the time limit established in paragraph (6)(a) of this rule if exceptional circumstances exist with respect to a particular complaint.

(b) Procedures for the effective implementation of the Department of Education's final decision include the following:

1. Technical assistance activities;

2. Negotiations; and,

3. Corrective actions to achieve compliance.

(c) Relationship to due process hearings.

1. If a written complaint is received that is also the subject of a due process hearing requested pursuant to subsection (11) of this rule, or the complaint contains multiple issues, of which one or more are part of that hearing, the Department of Education shall set aside any part of the complaint that is being addressed in the due process hearing until the conclusion of the hearing. However, any issue in the complaint that is not a part of the due process action must be resolved in compliance with the procedures described in subsection (6) of this rule.

2. If an issue is raised in a complaint filed under this subsection that has previously been decided in a due process hearing involving the same parties, the administrative law judge's decision is binding and the Department of Education shall inform the complainant to that effect.

3. The Department of Education shall resolve any complaint which alleges that a school district has failed to implement a due process hearing decision.

(7) Independent educational evaluation.

(a) The parents of a child with a disability have the right to obtain an independent educational evaluation for their child and be provided upon request for an independent educational evaluation information about where an independent

educational evaluation may be obtained and of the qualifications of the evaluation specialist in accordance with paragraph (4)(a) of Rule 6A-6.0331, FAC.

(b) Independent educational evaluation is defined to mean an evaluation conducted by a qualified evaluation specialist as prescribed in paragraph (4)(a) of Rule 6A-6.0331, FAC., who is not an employee of the district school board.

(c) Public expense is defined to mean that the school district either pays for the full cost of the evaluation or ensures that the evaluation is otherwise provided at no cost to the parent.

(d) Whenever an independent educational evaluation is conducted, the criteria under which the evaluation is obtained, including the location of the evaluation and the qualifications of the evaluation specialist, shall be the same as the criteria prescribed by paragraph (4)(a) of Rule 6A-6.0331, FAC., for use by the school district when it initiates an evaluation to the extent that those criteria are consistent with the parent's right to an independent educational evaluation.

(e) The school district may not impose conditions or timelines for obtaining an independent educational evaluation at public expense other than those criteria described in paragraph (7)(d) of this rule.

(f) A parent has the right to an independent educational evaluation at public expense if the parent disagrees with an evaluation obtained by the school district.

(g) If a parent requests an independent educational evaluation at public expense, the school district must, without unnecessary delay either:

1. Ensure that an independent educational evaluation is provided at public expense; or

2. Initiate a hearing under subsection (11) of this rule to show that its evaluation is appropriate or that the evaluation obtained by the parent did not meet the school district's criteria. If the school district initiates a hearing and the final decision from the hearing is that the district's evaluation is appropriate then the independent educational evaluation obtained by the parent will be at the parent's expense.

(h) If a parent requests an independent educational evaluation, the school district may ask the parent to give a reason why he or she objects to the school district's evaluation. However, the explanation by the parent may not be required and the school district may not unreasonably delay either providing the independent educational evaluation at public expense or initiating a due process hearing to defend the school district's evaluation as described in subsection (11) of this rule.

(i) Evaluations obtained at private expense. If the parent obtains an independent educational evaluation at private expense:

1. The school district shall consider the results of such evaluation in any decision regarding the student if it meets the appropriate criteria described in paragraph (7)(d) of this rule; and

2. The results of such evaluation may be presented as evidence at any hearing authorized under subsection (11) of this rule.

(j) If an administrative law judge requests an independent educational evaluation as part of a hearing, the cost of the evaluation must be at public expense.

(8) Discipline Procedures. Discipline procedures for students with disabilities must be in accordance with the provisions of Rule 6A-6.03312, FAC.

(9) Placement of students with disabilities in private schools by their parents when the provision of a free appropriate public education by the school district is at issue.

(a) If the school district has made a free appropriate public education available to a student with a disability and the parents elect to place the child in a private school or facility, the school district is not required to pay for the cost of education, including specially designed instruction and related services.

(b) Disagreements between a parent and a school district regarding the availability of a program appropriate for the student, and the question of financial responsibility, are subject to the due process procedures described in subsection (11) of this rule.

(c) If the parents of a child with a disability, who previously received specially designed instruction and related services under the authority of a public agency, enroll the student in a private preschool, elementary, or secondary school without the consent of or referral by the school district, a court or an administrative law judge may require the school district to reimburse the parents for the cost of that enrollment; if the court or administrative law judge finds that the school district had not made a free appropriate public education available to the student in a timely manner prior to that enrollment, and that the private placement is appropriate. A parental placement may be found to be appropriate by an administrative law judge or a court even if it does not meet the state standards that apply to education by the Department of Education and the school district.

(d) The cost of reimbursement described in paragraph (9)(c) of this rule may be reduced or denied in accordance with the requirements of Sections 300.403(d)-(e) of Title 34 of the Code of Federal Regulations.

(10) Transfer of Rights of Students with Disabilities at the Age of Majority. The purpose of this section is to establish procedures for school districts to inform parents and students of the long standing provisions of state law regarding the rights and responsibilities that transfer to an individual upon attaining the age of eighteen (18). The right to notice under this rule is retained as a shared right of the parent and the student except as provided in paragraph (10)(d) of this rule.

(a) At age eighteen (18), all other rights afforded to parents under Part B of the Individuals with Disabilities Education Act transfer to the student, unless the student has

been determined to be incompetent under state law as established by Chapter 744, Florida Statutes, or a guardian advocate has been appointed to make decisions affecting educational services as provided by Section 393.12, Florida Statutes.

(b) The school district shall notify the student and the parent of the transfer of rights, when the student attains the age of eighteen (18).

(c) The school district shall provide all notices required by Rules 6A-6.03311 and 6A-6.03028 FAC., to both the student who has attained age eighteen (18) and the student's parent.

(d) For students who have attained age eighteen (18) and are incarcerated in a juvenile justice facility or local correctional facility, all rights accorded to parents under this rule transfer to the student, including the right to notice as described in paragraph (10)(a) of this rule.

(e) If a student with a disability has reached the age of majority and does not have the ability to provide informed consent with respect to his or her educational program, procedures established by statute may be used by the parent to:

1. Have their child declared incompetent and the appropriate guardianship established in accordance with the provisions of Chapter 744, Florida Statutes;

2. Be appointed to represent the educational interests of their child throughout the child's eligibility for a specially designed instruction and related services consistent with Rules 6A-6.03011 through 6A-6.03018, and Rules 6A-6.03020 through 6A-6.03023, FAC., in accordance with Section 393.12, Florida Statutes; or,

3. Have another appropriate individual appointed to represent the educational interests of their child throughout the child's eligibility for specially designed instruction and related services consistent with Rules 6A-6.03011 through 6A-6.03018, and Rules 6A-6.03020 – 6A-6.03025, FAC., if the parent is not available in accordance with Section 393.12, Florida Statutes.

(11) Due process hearings. While use of mediation and the state complaint procedure may be preferable and less litigious, due process hearings are required to be available to parents of students with disabilities and to school districts to resolve matters related to the identification, evaluation, or educational placement of the student or the provision of a free appropriate public education.

(a) Such hearings may be initiated by a parent or a school district on the proposal or refusal to initiate or change the identification, evaluation, or educational placement of the student or the provision of a free appropriate public education to the student.

(b) A hearing shall be conducted by an administrative law judge (ALJ), appointed as required by Section 120.65, Florida Statutes, from the Division of Administrative Hearings, Department of Management Services, on behalf of the Department of Education.

(c) An administrative law judge (ALJ) shall use subsection (11) of this rule for any such hearings and shall conduct such hearings in accordance with the Uniform Rules for Administrative Proceedings, Chapter 28-106, FAC. The procedures for these hearings shall include:

1. Prehearing summary of facts. Prior to the prehearing conference set forth below, the moving party or petitioner shall submit to the ALJ assigned to the case, a brief summary of facts setting forth the facts which the petitioner believes are related to the ALJ's determination of the petitioner's entitlement to the relief sought. The summary shall also include a description of the relief sought by the petitioner and the reasons petitioner is entitled to the relief sought.

2. Prehearing Conference. A prehearing conference shall be scheduled within ten (10) days of the Division of Administrative Hearings' (DOAH's) receipt of the request for a due process hearing. The purpose of the prehearing conference shall be to consider any of the following, as deemed appropriate by the ALJ:

a. Specifying and simplifying the issues;

b. Proposing resolutions;

c. Admitting facts to which both parties agree. A joint written statement specifying the facts to which both parties agree shall be provided to the ALJ within two (2) weeks of the prehearing conference;

d. Preparation of documents that will be submitted by both parties. An authenticated set of these documents shall be exchanged by each party and one combined set shall be filed with the ALJ within two (2) weeks of the prehearing conference;

e. Preparation of the list of the witnesses to be used during the hearing. The list of witnesses shall be filed with the ALJ within two (2) weeks of the prehearing conference;

f. Establishing reasonable limitations and/or guidelines on discovery between the parties. In setting the parameters for discovery, the ALJ should consider the expedited nature of the hearing process, the relative burden on the parties, and whether the discovery sought is necessary or whether it could be obtained by other, less burdensome means;

g. Determining whether unusual circumstances exist that would require the use of expedited discovery prior to the hearing such as depositions, document production, or interrogatories;

h. Determining whether unusual circumstances exist that would require the filing of any motions or pleadings prior to or during the hearing;

i. Determining the date, time, and place of the hearing and how many days the parties may require to present their case.

j. Discussing other matters which may aid in simplifying the proceeding or disposing of matters in dispute, including settling matters in dispute.

3. Upon conclusion of the prehearing conference, the ALJ shall issue a prehearing order setting forth the following:

- a. The date, time and location of the hearing.
- b. The issues to be resolved at the hearing.
- c. The relief being sought.
- d. The deadline, no later than five (5) days before the hearing, for the parties to disclose their witness lists and evidence to be used at the hearing.
- e. Any reasonable limits on the amount of time for the hearing.
- f. Limitations or parameters for discovery.
- g. The filing and dispositions of any requests or motions, and
- h. Other matters or relevant information as determined by the ALJ.

4. No pleadings, other than the request for hearing, are mandatory unless ordered by the ALJ.

5. The ALJ has the authority to issue subpoenas to compel the attendance of witnesses and the production of records, to issue summary rulings in absence of a disputed issue of material fact.

6. If there is conflict between the due process provisions set forth in subsection (11) of this rule and Chapter 28-106, FAC., the provisions of subsection (11) shall govern.

(d) Status of student during proceedings. Except as provided in subsection (9) of Rule 6A-6.03312, FAC., during the time that an administrative or subsequent judicial proceeding regarding a due process hearing is pending, unless the parent of the student and the district agree otherwise, the student involved in the proceeding must remain in the present educational placement. If the proceeding involves an application for an initial admission to public school, the student, with the consent of the parent, must be placed in a public school program until the completion of all proceedings. If the administrative law judge agrees with the parent and finds that a change of placement is appropriate, that placement becomes the agreed-upon placement during the pendency of the appeal.

(e) Hearing rights for all parties.

1. Any party to a hearing conducted pursuant to subsection (11) of this rule has the right:

a. To be represented by counsel or to be represented by a qualified representative under the qualifications and standards set forth in Rules 28-106.106 and 28-106.107, FAC., or to be accompanied and advised by individuals with special knowledge or training with respect to the problems of students with disabilities, or any combination of the above;

b. To present evidence, and to confront, cross-examine, and compel the attendance of witnesses;

c. To prohibit the introduction of any evidence at the hearing that has not been disclosed to that party at least five (5) business days before the hearing;

d. To obtain written, or at the option of the parents, electronic verbatim record of the hearing at no cost to the parents; and

e. To obtain written, or at the option of the parents, electronic findings of fact and decisions at no cost to the parents.

2. Additional disclosure of information.

b. An administrative law judge may bar any party that fails to comply with sub-subparagraph (11)(e)2.a. of this rule from introducing the relevant evaluation or recommendation at the hearing without the consent of the other party. At least five (5) business days prior to a hearing conducted pursuant to subsection (11) of this rule, each party shall disclose to all other parties all evaluations completed by that date and recommendations based on the offering party's evaluations that the party intends to use at the hearing.

(f) Parental rights at hearings. In addition to the rights identified in paragraph (11)(e) of this rule, parents involved in hearings must be given the right to:

1. Have their child who is the subject of the hearing present.

2. Open the hearing to the public.

(g) Duties and responsibilities of the superintendent or designee shall include:

1. Implementing procedures that require the parent of a child with a disability or the attorney representing the child, to provide notice. The notice, must remain confidential and must include: the name of the child; the address of the residence of the child; the name of the school that the child is attending; a description of the nature of the problem of the child relating to the proposed or refused initiation or change, including facts relating to the problem; and, a proposed resolution of the problem to the extent known and available to the parents at the time. However, the school district may not deny or delay a parent's right to a due process hearing for failure to provide this notice.

2. Immediately forwarding the Division of Administrative Hearings by facsimile transmission of the parents' request for a hearing upon its receipt.

3. Notifying all parties regarding their rights and responsibilities before, during, and after the hearing. This notice should include information to the parent of any free or low cost legal and other relevant services, including mediation services, which are available, if the parent requests this information or if the parent or school district initiates a hearing.

4. Complying with the administrative law judge's rulings regarding requests for and exchanges of evidence; discovery; the filing of motions; and, scheduling, so as to meet the requirements of subsection (11) of this rule, and the deadlines established herein.

5. Arranging for the provision and payment of clerical assistance, the hearing, use of facilities, and a verbatim transcript of the hearing.

6. Completing other responsibilities specified by the school board.

7. To determine whether an interpreter is needed and arranging for the interpreter as required:

(h) Duties and responsibilities of the Department of Education shall include:

1. Maintaining a list of persons who serve as administrative law judges, including a statement of the qualifications of each of these persons:

2. Maintaining an index of the final orders of such hearings and providing this information to the public upon request; and,

3. Transmitting the findings and decisions, after deleting any personally identifiable information, of any such hearings to the Commissioner of Education for review by the State Advisory Committee for the Education of Exceptional Students.

4. Developing a model notice to assist parents in filing a request for a due process hearing that includes the information required in subparagraph (11)(g)1. of this rule.

(i) Duties and responsibilities of an administrative law judge shall be:

1. To establish the date, time, and location of the hearing and any pre-hearing conference calls and motion hearings. Each hearing involving oral arguments must be conducted at a time and place that is reasonably convenient to the parents and their child;

2. To conduct the hearing in a fair and impartial manner;

3. To ensure that all discovery, motion practice, and pre-trial procedures are conducted in an expedited manner, consistent with the deadlines established by this rule concerning the exchange of evidence and the issuance of the final decision established by this rule.

4. To determine if the parent wants an electronic or written copy of the final decision and the administrative record of the hearing;

5. To determine whether the parent wants the hearing open to the public and whether the parent wants their child to attend the hearing;

6. To determine whether the parent's advisor or counsel is sufficiently knowledgeable about or trained with respect to the problems of students with disabilities;

7. To determine how evidence may be exchanged prior to and during the hearing;

8. To determine how witnesses may be compelled to attend, be cross-examined, and confronted during discovery and at the hearing;

9. To determine how evaluations and recommendations may be disclosed prior to and during a hearing;

10. To summarize the facts and findings of the case and to arrive at an impartial decision based solely on information presented during the hearing;

11. To reach a final decision and mail to all parties copies of the facts, findings, and decision regarding the hearing within forty-five (45) days of the district's receipt of the parent's request or the filing of the district's request for a hearing, whichever is sooner;

12. To be accountable for all deadlines and procedures established by the statutes and rules for such hearings;

13. To maintain the confidentiality of all information; and

14. To rule on requests for specific extensions of time beyond the periods set forth in paragraph (11)(i) of this rule, at the request of either party.

(j) Civil Action. A decision made in a hearing conducted under subsection (11) of this rule shall be final; unless, within thirty (30) days, a party aggrieved by the decision brings a civil action in federal district or state circuit court without regard to the amount in controversy, as provided in Section 1003.57(5), Florida Statutes. The state circuit or federal district court shall: receive the records of the administrative proceedings; hear, as appropriate, additional evidence at the request of a party; and basing its decision on the preponderance of the evidence, shall grant the relief it determines appropriate. In the alternative, any party aggrieved by the administrative law judge's decision shall have the right to request an impartial review by the appropriate state district court of appeal as provided by Sections 120.68 and 1003.57(5), Florida Statutes. Nothing in this rule restricts or limits the rights, procedures, and remedies available under the U.S. Constitution, the Americans with Disabilities Act of 1990, Title V of the Rehabilitation Act of 1973, or other Federal laws protecting the rights of children with disabilities, except that before the filing of a civil action under these laws seeking relief that is also available under the procedures safeguards available under the IDEA, the procedures under impartial hearing or appeal must be exhausted to the same extent as would be required had the action been brought under the remedies available under the IDEA.

(12) Attorneys' Fees.

(a) A district court of the United States or a state circuit court may award reasonable attorneys' fees as part of the costs to the parents of a child with disabilities who is a prevailing party in a due process hearing or in a subsequent judicial proceeding.

(b) A parent of a child with a disability who is a prevailing party in the due process hearing or in a further proceeding may bring an action in a federal district court or a state circuit court for attorneys' fees within the time determined by law.

(c) The court may award reasonable attorneys' fees consistent with the provisions of 300.513 of Title 34 of the Code of Federal Regulations. Funds under Part B may not be used to pay attorneys' fees or costs of a party related to action

or proceedings. However, this does not preclude a public agency from using Part B funds for conducting any action or proceeding under the Act.

Specific Authority 1001.02(1)(2)(n), 1003.01(3)(a),(b), 1003.57(5) +20.53(1)(b), 228.041(18),(19), 229.053(1), 230.23(4)(m), 236.081(1)(e) FS. Law Implemented 1001.42(4)(l), 1003.01(3)(a),(b), 1001.03(8), 1101.62(1)(c), 1003.57(5) +20.53(1)(b), 228.041(18),(19), 229.053(1), 230.23(4)(m) FS., P.L. 105-17 94-142, 20 USC 1414 and 1415. History--New 7-13-83, 12-20-83, 4-26-84, Formerly 6A-6.3311, Amended 7-17-90, \_\_\_\_\_.

#### 6A-6.03312 Discipline Procedures for Students with Disabilities.

For students whose behavior impedes their learning or the learning of others, strategies, including positive behavioral interventions and supports to address that behavior must be considered in the development of the students' individual educational plans (IEPs). Procedures for providing discipline for students with disabilities must be consistent with the requirements of this rule.

##### (1) Definitions.

(a) Change of placement. For the purpose of removing a student with a disability from the student's current educational placement as specified in the student's individual educational plan (IEP) under this rule, a change of placement occurs when:

1. The removal is for more than ten (10) consecutive school days, or

2. A series of removals constitutes a pattern because the removals cumulate to more than ten (10) school days in a school year, and because of factors such as the length of each removal, the total amount of time the student is removed, and the proximity of the removals to one another.

(b) Positive behavioral support. Positive behavioral support is a process for designing and implementing individualized behavioral intervention plans based on understanding relationships between the student's behavior and his or her environment as determined through a functional behavioral assessment.

(c) Functional behavioral assessment. A functional behavioral assessment (FBA) is a process for developing a useful understanding of how behavior relates to the environment and may include any or all of the following: review of records, interviews, observations, and the collection of data using formal or informal measurement procedures.

(d) Controlled substance. A controlled substance is a drug or other substance identified through the Controlled Substances Act, 21 U.S.C. 812(c) and Section 893.02(4), Florida Statutes.

(e) Illegal Drug. An illegal drug means a controlled substance but does not include a substance that is legally possessed or used under the supervision of a licensed health-care professional or that is legally possessed or used under any other authority under the Controlled Substances Act, 21 U.S.C. 812(c) or under any other provision of federal law.

(f) Weapon. A weapon is defined in Section 790.001(13), Florida Statutes, and includes a dangerous weapon, device, instrument, material, or substance, animate or inanimate, that is used for, or is readily capable of, causing death or serious bodily injury.

(g) Firearm. A firearm is defined in Section 790.001(6), Florida Statutes.

(h) Individual Educational Plan (IEP) Team. An IEP team must meet the requirements specified in subsection (4) of Rule 6A-6.03028, FAC.

(i) Manifestation Determination. A manifestation determination examines the relationship between the student's disability and a specific behavior that may result in disciplinary action.

(j) Interim Alternative Educational Setting. An interim alternative educational setting (IAES) is a different location where educational services are provided for a specific time period due to disciplinary reasons and that meets the requirements of paragraph (6)(a) of this rule.

(k) Expedited Due Process Hearings. Expedited due process hearings shall be conducted by an administrative law judge for the Division of Administrative Hearings, Department of Management Services, on behalf of the Department of Education, and shall be held at the request of either the parent or the school district regarding disciplinary actions. These hearings must meet the requirements prescribed in subsection (11) of Rule 6A-6.03311, FAC., except that the written decision must be mailed to the parties within forty-five (45) calendar days of the school district's receipt of the parent's request for the hearing or the filing of the district's request for the hearing without exceptions or extensions.

(l) Short Term Removals. A short term removal is the removal of a student with a disability from the student's current placement for a total of ten (10) school days or less in a school year that does not constitute a change in placement as defined in paragraph (1)(a) of this rule.

(m) Long Term Removals. A long term removal is the removal of a student with a disability from the student's current placement for more than ten (10) school days in a school year which may or may not constitute a change in placement as defined in paragraph (1)(a) of this rule.

(n) Substantial evidence. Substantial evidence shall be defined to mean beyond a preponderance of the evidence.

(2) Authority of School Personnel. Consistent with the school board's Code of Student Conduct and to the extent that removal would be applied to students without disabilities, school personnel may order:

(a) The removal of a student with a disability from the student's current placement for not more than ten (10) consecutive school days.



(b) Additional removals of a student with a disability of not more than ten (10) consecutive school days in that same school year for separate incidents of misconduct as long as those removals do not constitute a change in placement as defined in paragraph (1)(a) of this rule.

(3) Manifestation Determination. A manifestation determination, consistent with the following requirements, must be made any time disciplinary procedures result in a change of placement.

(a) In conducting the review, the IEP team and other qualified personnel shall:

1. Consider all relevant evaluation and diagnostic information including information supplied by the parents of the student, observations of the student, the student's current IEP and placement, and any other relevant information, then

2. Determine that, in relationship to the behavior subject to disciplinary action:

a. The student's IEP and placement were appropriate and whether the special education services, supplementary aids and services, accommodations and modifications as defined in paragraphs (2)(e) and (f) of Rule 6A-6.03028, FAC., and positive behavior intervention strategies were provided consistent with the student's IEP and placement;

b. The student's disability impaired the ability of the student to understand the impact and consequences of the behavior subject to disciplinary action; and

c. The student's disability impaired the student's ability to control the behavior subject to disciplinary action.

(b) If the IEP team and other qualified personnel determine that the student's behavior was not related to the disability, the relevant disciplinary procedures applicable to students without disabilities may be applied to the student in the same manner in which they would be applied to students without disabilities. However, services consistent with subsection (5) of this rule must be provided.

(c) With the exception of placement in an interim alternative educational setting, as described in paragraphs (1)(j) and (6)(b) of this rule, if the IEP team determines that the student's behavior was a manifestation of the disability, the student's placement cannot be changed by school personnel as a disciplinary intervention. However, the IEP team may determine that a change of placement is necessary to provide the student a free, appropriate public education in the least restrictive environment.

(d) If the IEP team and other qualified personnel determine that any of the requirements of subparagraph (3)(a)2. of this rule were not met, the behavior subject to disciplinary action must be considered a manifestation of the student's disability.

(e) The review described in paragraph (3)(a) of this rule may be conducted at the same IEP meeting that is required by paragraph (4)(b) of this rule.

(f) Immediate steps must be taken to remedy any deficiencies in the student's IEP or placement or in their implementation that were identified during the manifestation determination.

(g) If a parent disagrees with the manifestation determination decision made by the IEP team pursuant to this rule, the parent may request an expedited due process hearing as described in subsection (7) of this rule.

(4) Long Term Removals. For all such removals contemplated:

(a) The school district must notify the parent of the removal decision and provide the parent with a copy of the notice of procedural safeguards as referenced in Rule 6A-6.03311, FAC., on the same day as the date of the removal decision:

(b) An IEP meeting must be held immediately if possible but in no case later than ten (10) school days after the removal decision to conduct a manifestation determination review as described in subsection (3) of this rule:

(c) Services consistent with subsection (5) of this rule must be provided:

(d) Either before or not later than ten (10) business days after either first removing the student for more than ten (10) school days in a school year or beginning with a removal that constitutes a change in placement:

1. If the school district did not conduct a functional behavioral assessment (FBA) and implement a positive behavior intervention plan (PBIP) for the student before the behavior that resulted in the removal, the IEP team must meet to develop an assessment plan.

2. As soon as practicable after developing the assessment plan and completing the FBA, as prescribed in subparagraph (4)(d)1., of this rule, the IEP team must meet to develop an appropriate PBIP to address the behavior and shall implement the PBIP.

3. If the student has a PBIP, the IEP team shall meet to review the plan and its implementation and revise the plan and its implementation as necessary to address the behavior.

(e) If subsequently, a student with a disability who has a PBIP and who has been removed from the student's current placement for more than ten (10) school days in a school year is subjected to a removal that does not constitute a change in placement as described in paragraph (1)(a) of this rule:

1. The IEP team shall review the PBIP and its implementation to determine if revisions are necessary.

2. If one or more of the IEP team members believe that revisions are needed, the IEP team shall revise the plan and its implementation to the extent that the IEP team determines is necessary.

(5) Free Appropriate Public Education for Students with Disabilities who are Suspended or Expelled.

(a) A school district is not required to provide services to a student with a disability during short-term removals totaling ten (10) school days or less in a school year, if services are not provided to students without disabilities during such removals.

(b) Beginning on the eleventh cumulative school day of removal in a school year, a school district must provide a free appropriate public education (FAPE) to a student with a disability, consistent with the requirements of this rule and the following:

1. A school district must provide services to such a student to the extent necessary to enable the student to appropriately progress in the general curriculum and appropriately advance toward achieving the goals in the student's IEP.

2. If the removal is not for more than ten (10) consecutive school days in a school year and is not considered a change in placement, consistent with paragraph (1)(a) of this rule, school personnel, in consultation with the student's special education teacher(s), shall determine the extent to which services are necessary to enable the student to appropriately progress in the general curriculum and appropriately advance toward achieving the student's IEP goals.

(c) If the removal is due to behavior that was determined not to be a manifestation of the student's disability, the IEP team shall determine the extent to which services are necessary to enable the student to appropriately progress in the general curriculum and appropriately advance toward achieving the student's IEP goals.

(6) Interim Alternative Educational Setting (IAES).

(a) The IEP team must determine the IAES, unless it is determined by an administrative law judge in accordance with paragraph (8)(a) of this rule.

1. The IAES must be selected so as to enable the student to continue to progress in the general curriculum and to continue to receive these services, accommodations, and modifications, including those described in the student's current IEP, that will enable the student to meet the IEP goals.

2. The IAES must include services, accommodations, and modifications to address the behavior that resulted in the change of placement and that are designed to prevent the misconduct from recurring.

(b) School personnel may place a student in an IAES without the consent of the parent for the same amount of time a student without a disability would be placed, but for not more than forty-five (45) calendar days. Such a placement can only occur if the student:

1. Carries a weapon or firearm to school or to a school function, or

2. Knowingly possesses or uses illegal drugs or sells or solicits the sale of a controlled substance while at school or a school function.

(c) School personnel must notify the parent of any IAES placement contemplated and provide the parent with a copy of the notice of procedural safeguards, referenced in Rule 6A-6.03311, FAC., on the day the placement decision is made.

(7) Expedited Hearings.

(a) An expedited hearing may be requested:

1. By the student's parent if the parent disagrees with a manifestation determination or with any decision not made by an administrative law judge regarding a change in placement under this rule.

2. By the school district if school personnel maintain that the current placement of the student is substantially likely to result in injury to the student or to others (prior to removal to an interim alternative education setting) during the pendency of a due process hearing or an appeal as prescribed in subsection (11) of Rule 6A-6.03311, FAC.

(b) School district personnel may request subsequent expedited hearings for alternative placements if a forty-five (45) day term has expired, the district maintains that the student's behavior continues to be and is dangerous and still likely to result in injury to the student or others.

(c) The decision of the administrative law judge rendered in an expedited hearing may be appealed by bringing a civil action in a federal district or state circuit court, as provided in Section 1003.57(5), Florida Statutes or by requesting an impartial review by the appropriate district court of appeal as provided by Sections 120.68 and 1003.57(5), Florida Statutes.

(8) Authority of an administrative law judge.

(a) An administrative law judge may order a change in the placement of a student with a disability to an appropriate interim alternative or another educational setting for not more than forty-five (45) calendar days if the administrative law judge, in an expedited due process hearing:

1. Determines that the school district has demonstrated by substantial evidence that maintaining the current placement of the student is substantially likely to result in injury to the student or to others;

2. Considers the appropriateness of the student's current placement;

3. Considers whether the school district has made reasonable efforts to minimize the risk of harm in the student's current placement, including the use of supplementary aids and services; and

4. Determines that the interim alternative educational setting (IAES) that is proposed by school personnel who have consulted with the student's special education teacher meets the requirements of subparagraphs (6)(a)1.-2. of this rule.

(b) In reviewing a decision with respect to the manifestation determination, the administrative law judge shall determine whether the school district has demonstrated that the student's behavior was not a manifestation of the student's disability consistent with the requirements of subsection (3) of this rule.

(c) In reviewing a decision to place a student in an IAES, the administrative law judge shall apply the requirements of subsection (6) and paragraph (8)(a) of this rule.

(9) Student's Placement During Proceedings.

(a) If a parent requests a hearing or an appeal to challenge an IAES placement, a manifestation determination or disciplinary action resulting from the student's involvement with a weapon, illegal drugs, or a controlled substance, the student must remain in the IAES pending the decision of the administrative law judge or until the expiration of the forty-five (45) day time period, whichever occurs first, unless the parent and the school district agree otherwise.

(b) If the school district proposes to change the student's placement after the expiration of the forty-five day period of the IAES placement, and the parent challenges that proposed change of placement, the student must return to his or her placement prior to the IAES, except as provided in paragraph (7)(b) of this rule.

(c) In accordance with paragraph 6A-6.03311(11)(d), FAC., and Section 1003.57(5), Florida Statutes, except as specified in paragraphs (9)(a)-(b) of this rule, if a parent requests for a hearing to challenge a manifestation determination, the student must remain in the current educational placement, unless the parent of the student and the district agree otherwise.

(10) Protections for Students not Yet Eligible for Special Education. A regular education student who is the subject of disciplinary actions may assert any of the protections afforded to a student with a disability if the school district had knowledge of the student's disability before the misbehavior occurred for which the disciplinary action is being taken.

(a) Basis of knowledge. A school district is determined to have knowledge that a student may have a disability if:

1. The parent has expressed concerns in writing or orally, if the parent does not know how to write or has a disability that prevents a written statement, to school district personnel that the student needs special education and related services;

2. The behavior or performance of the student demonstrates the need for special education;

3. The parent has requested an evaluation to determine a need for possible special education; or

4. The teacher of the student or other school district personnel have expressed concern about the student's behavior or performance to the special education director or to other appropriate school district personnel in accordance with the school district's child find or special education referral system.

(b) Exception. A school district would not be deemed to have knowledge if, as a result of receiving the information specified in paragraph (10)(a) of this rule, the school district:

1. Conducted an evaluation and determined that the student was not a student with a disability; or

2. Determined that an evaluation was not necessary; and

3. Provided notice to the student's parents of the determination that the student was not a student with a disability as required by Rule 6A-6.03311, FAC.

(c) Conditions that Apply if No Basis of Knowledge.

1. If the school district has no knowledge that the student is a student with a disability prior to disciplinary action, the student may be disciplined in the same manner as a student without a disability.

2. If an evaluation request is made for the student during the time period of the disciplinary action, the evaluation shall be conducted in an expedited manner. Until the evaluation is completed, the student remains in the educational placement determined by school authorities, which can include suspension or expulsion without educational services. After considering the evaluation results and information provided by the parents, if the student is determined to be a student with a disability, the school district shall provide special education and related services consistent with the requirements of this rule.

(11) Student Records in Disciplinary Procedures. School districts shall ensure that the special education and disciplinary records of students with disabilities are transmitted, consistent with the provisions of Section 1002.22, Florida Statutes, and Rule 6A-1.0955, FAC:

(a) For consideration by the person making the final determination regarding the disciplinary action, and

(b) For consideration by the appropriate authorities to whom school districts report crimes.

(12) Disciplinary Records of Students with Disabilities. School districts shall include in the records of students with disabilities a statement of any current or previous disciplinary action that has been taken against the student and transmit the statement to the same extent that the disciplinary information is included in, and transmitted with the student records of nondisabled students.

(a) The statement may be a description of any behavior engaged in by the student that required disciplinary action, a description of the disciplinary action taken, and any other information that is relevant to the safety of the student and other individuals involved with the student.

(b) If the student transfers from one school to another, the transmission of any of the student's records must include both the student's current individual educational plan (IEP) and any statement of current or previous disciplinary action that has been taken against the student.

(13) Suspension and expulsion rates.

(a) The state education agency (SEA), the Florida Department of Education, will examine data to determine if significant discrepancies are occurring in the rate of long-term suspensions and expulsions of children with disabilities.

1. Among local education agencies (LEA's) in the state; or

2. Compared to the rates for non-disabled children within the school districts.

(b) If the discrepancies described in paragraph (a) of this section are occurring, the SEA reviews and, if appropriate, revises (or requires the affected state agency or LEA to revise) its policies, procedures, and practices relating to the development and implementation of IEPs, the use of behavioral interventions, and procedural safeguards, to ensure that these policies, procedures, and practices comply with the Individuals with Disabilities Education Act (IDEA) in accordance with 300.146 of Title 34 Code of Federal Regulations.

Specific Authority 1001.02(1),(2)(n), 1003.01(3)(a),(b), 1003.57(5), 1006.09 FS. Law Implemented 1001.03(8), 1001.42(4)(l), 1003.01(3)(a),(b), 1003.57(5), 1006.09 FS. P.L. 105-17, 20 USC 1401, 1414, 1415 FS. History--New \_\_\_\_\_.

6A-6.03313 Procedural Safeguards for Exceptional Students who are Gifted.

Providing parents with information regarding their rights under this rule is critical to ensuring that they have the opportunity to be partners in the decisions regarding their children. It is also critical that local school boards provide information about these rights to appropriate district and school personnel so that the needs of the student can be identified and appropriately met. The school board's policy and procedures for procedural safeguards shall be set forth in accordance with Rule 6A-6.03411, FAC., and shall include adequate provisions for the following:

(1) Prior notice. The school district shall provide parents with prior written notice a reasonable time before any proposal or refusal to initiate or change the identification, evaluation, educational placement of the student or the provision of a free appropriate public education to the student.

(a) The prior notice to the parents shall be written in language understandable to the general public and shall be provided in the native language or other mode of communication commonly used by the parent unless such communication is clearly not feasible to do so.

(b) If the parents' mode of communication is not a written language, the school district shall ensure:

1. That the notice is translated to the parents orally or by other means in their native language or mode of communication;

2. That the parents understand the content of the notice; and

3. That there is written documentation that the requirements of subparagraphs (1)(b)1. and 2. of this rule have been met.

(c) The notice to the parents shall include:

1. A description of the action proposed or refused by the district, an explanation of why the district proposes or refuses to take the action, and a description of any other options the district considered and the reasons why those options were rejected;

2. A description of each evaluation procedure, test, record, or report the district used as a basis for the proposed or refused action;

3. A description of any other factors that are relevant to the district's proposal or refusal; and

4. Information on how the parent can obtain a copy of the procedural safeguards specified in this rule.

(2) Content and Provision of the Procedural Safeguards to Parents.

(a) Parents must be provided a copy of their procedural safeguards which provides a full explanation of the provisions included in this rule.

(b) A copy of the procedural safeguards must be available to the parents of a child who is gifted, and must be given to the parents, at a minimum:

1. Upon initial referral for evaluation;

2. Upon refusal of a parent's request to conduct an initial evaluation;

3. Upon notification of each EP meeting; and

4. Upon receipt of a request for a due process hearing by either the school district or the parent in accordance with subsection (7) of this rule.

(3) Informed parental consent.

(a) Parents shall be fully informed of all information relevant to the action for which consent is sought in their native language or other mode of communication unless such communication is clearly not feasible.

(b) Written parental consent shall be obtained prior to conducting an initial evaluation to determine eligibility and prior to initial provision of services to students who are gifted.

(c) School districts shall document the attempts to secure consent from the parent as required by paragraph (3)(b) of this rule.

(d) Parental consent is voluntary and may be revoked at any time before the action occurs.

(e) Except for formal, individual evaluation and the initial provision of services to the student, consent may not be required as a condition of any other benefit to the parent or child. Any proposal or refusal to initiate or change the identification, evaluation, or educational placement or the provision of a free appropriate public education to the student after the initial placement is not subject to parental consent but is subject to prior notice as defined by subsection (1) of this rule.

(f) Parental consent is not required before:

1. Reviewing existing data as part of an evaluation; or

2. Administering a test or other evaluation that is administered to all students unless, before administration of that test or evaluation, consent is required of parents of all children.

(4) Parents' opportunity to examine records and participate in meetings.

(a) The parents of students who are gifted shall be afforded, in accordance with Rule 6A-1.0955, FAC., Section 1002.22, Florida Statutes, and this rule, an opportunity to inspect and review their child's educational records.

(b) The right to inspect and review education records under this rule includes the right to have a representative of the parent inspect and review the records including all records related to the identification, evaluation, and educational placement of the child and the provision of a free appropriate public education to the child.

(c) The parents of a student who is gifted must be afforded an opportunity to participate in meetings with respect to the development of their child's educational plan.

(5) Evaluations obtained at private expense. If the parent obtains an independent evaluation at private expense which meets the requirements of subsection (4) of Rule 6A-6.0331, FAC., the results of the evaluation must be considered by the school district in any decision made with the respect to the determination of eligibility for exceptional student education services.

(a) The results of such evaluation may be presented as evidence at any hearing authorized under subsection (7) of this rule.

(b) If an administrative law judge requests an independent educational evaluation as part of a hearing, the cost of the evaluation must be at public expense, as defined in paragraph (7)(c) of Rule 6A-6.03411, FAC.

(6) State Complaint Procedures. The Department of Education shall provide parents and other interested persons the opportunity to resolve allegations that a school district has violated state requirements regarding the education of students who are gifted through the establishment of state complaint procedures.

(a) Within ninety (90) calendar days after a complaint is filed, under the provisions of this rule, the Department of Education shall:

1. Carry out an independent on-site investigation, if the Department of Education determines that to be necessary;

2. Give the complainant the opportunity to submit additional information, either orally or in writing, about the allegations in the complaint;

3. Review all relevant information and make an independent determination as to whether the school district is violating a state requirement regarding the education of students who are gifted;

4. Issue a written decision on the complaint that addresses each issue presented in the complaint and contains findings of fact, conclusions, and the reason(s) for the Department of Education's final decision; and

5. Extend the time limit established in paragraph (6)(a) of this rule if exceptional circumstances exist with respect to a particular complaint.

(b) Procedures for the effective implementation of the Department of Education's final decision include the following:

1. Technical assistance activities;

2. Negotiations; and,

3. Corrective actions to achieve compliance.

(c) Relationship to due process hearings.

1. If a written complaint is received that is also the subject of a due process hearing requested pursuant to subsection (7) of this rule, or the complaint contains multiple issues, of which one or more are part of that hearing, the Department of Education shall set aside any part of the complaint that is being addressed in the due process hearing until the conclusion of the hearing. However, any issue in the complaint that is not a part of the due process action must be resolved in compliance with the procedures described in subsection (6) of this rule.

2. If an issue is raised in a complaint filed under this subsection that has previously been decided in a due process hearing involving the same parties, the administrative law judge's decision is binding and the Department of Education shall inform the complainant to that effect.

3. The Department of Education shall resolve any complaint that alleges that a school district has failed to implement a due process hearing decision.

(7) Due process hearings. Due process hearings shall be available to parents of students who are gifted and to school districts to resolve matters related to the identification, evaluation, or educational placement of the student or the provision of a free appropriate public education.

(a) Such hearings may be initiated by a parent or a school district on the proposal or refusal to initiate or change the identification, evaluation, or educational placement of the student or the provision of a free appropriate public education to the student.

(b) A hearing shall be conducted by an administrative law judge from the Division of Administrative Hearings, Department of Management Services, on behalf of the Department of Education.

(c) An administrative law judge (ALJ) shall use subsection (7) of this rule for any such hearings and shall conduct such hearings in accordance with the Uniform Rules for Administrative Proceedings, Chapter 28-106, FAC., as deemed appropriate by the ALJ including, but not limited to: the authority of a party to request a pre-hearing conference, the authority of the ALJ to issue subpoenas to compel the attendance of witnesses and the production of records, and the authority of the ALJ to issue summary rulings in absence of a disputed issue of material fact.

(d) Status of student during proceedings.

1. During the time that an administrative or subsequent judicial proceeding regarding a due process hearing is pending, unless the district and the parent of the student agree otherwise, the student involved in the proceeding must remain in the

present educational assignment. If the proceeding involves an application for an initial admission to public school, the student, with the consent of the parent, must be placed in a public school program until the completion of all proceedings.

2. If the administrative law judge agrees with the parent and finds that a change of placement is appropriate, that placement becomes the agreed-upon placement during the pendency of the appeal.

(e) Hearing rights for all parties.

1. Any party to a hearing conducted pursuant to subsection (7) of this rule has the right:

a. To be represented by counsel or to be represented by a qualified representative under the qualifications and standards set forth in Rules 28-106.106 and 28-106.107, FAC., or to be accompanied and advised by individuals with special knowledge or training with respect to the problems of students who are gifted, or any combination of the above;

b. To present evidence, and to confront, cross-examine, and compel the attendance of witnesses;

c. To prohibit the introduction of any evidence at the hearing that has not been disclosed to that party at least five (5) business days before the hearing;

d. To obtain written, or at the option of the parents, electronic, verbatim record of the hearing at no cost to the parents; and

e. To obtain written, or at the option of the parents, electronic findings of fact and decisions at no cost to the parents.

2. Additional disclosure of information.

a. At least five (5) business days prior to a hearing conducted pursuant to subsection (7) of this rule, each party shall disclose to all other parties all evaluations completed by that date and recommendations based on the offering party's evaluations that the party intends to use at the hearing.

b. An administrative law judge may bar any party that fails to comply with subparagraph (7)(e)2. of this rule from introducing the relevant evaluation or recommendation at the hearing without the consent of the other party.

(f) Parental rights at hearings. Parents involved in hearings must be given, in addition to the rights described in paragraph (7)(e) of this rule, the right to:

1. Have their child who is the subject of the hearing present; and

2. Open the hearing to the public.

(g) Duties and responsibilities of the superintendent or designee shall include:

1. Implementing procedures that require the parent of a child who is gifted, or the attorney representing the child, to provide notice to the school district. The notice required, which must remain confidential, must include: the name of the child; the address of the residence of the child; the name of the school the child is attending; a description of the nature of the problem

relating to the proposed or refused initiation or change, including facts relating to the problem; and, a proposed resolution of the problem to the extent known and available to the parents at the time. However, the school district may not deny or delay a parent's right to a due process hearing for failure to provide this notice.

2. Immediately forwarding the Division of Administrative Hearings by facsimile transmission of the parent's request for a hearing upon its receipt;

3. Notifying all parties regarding their rights and responsibilities before, during, and after the hearing. This notice should include information to the parent of any free or low cost legal and other relevant services, which are available, if the parent requests this information or if the parent or school district initiates a hearing.

4. Determining whether an interpreter is needed and arranging for the interpreter as required;

5. Complying with the administrative law judge's rulings regarding requests for and exchanges of evidence; discovery; the filing of motions and, scheduling, so as to meet the requirements of this rule, and the deadlines established herein.

6. Arranging for the provision and payment of clerical assistance, the hearing, use of facilities, and a verbatim transcript of the hearing;

7. Completing other responsibilities specified by the school board.

(h) Duties and responsibilities of the Department of Education shall include:

1. Maintaining a list of persons who serve as administrative law judges including a statement of the qualifications of each of these persons; and

2. Maintaining an index of the final orders of such hearings and providing this information to the public upon request.

(i) Duties and responsibilities of an administrative law judge shall be:

1. To establish the date, time, and location of the hearing and any pre-hearing conference calls and motion hearings. Each hearing involving oral arguments must be conducted at a time and place that is reasonably convenient to the parents and their child;

2. To conduct the hearing in a fair and impartial manner;

3. To ensure that all discovery, motion practice, and pre-hearing procedures are conducted in an expedited manner, consistent with the deadlines established by this rule concerning the exchange of evidence and the issuance of the final decision.

4. To determine if the parent wants an electronic or written copy of the final decision and the administrative record of the hearing;

5. To determine whether the parent wants the hearing open to the public and whether the parent wants their child to attend the hearing;

6. To determine whether the parent's advisor or representative is sufficiently knowledgeable about or trained regarding students who are gifted;

7. To determine how evidence may be exchanged prior to and during the hearing;

8. To determine how witnesses may be compelled to attend, be cross-examined, and confronted during discovery and at the hearing;

9. To determine how evaluations and recommendations may be disclosed prior to and during a hearing;

10. To summarize the facts and findings of the case and to arrive at an impartial decision based solely on information presented during the hearing;

11. To reach a final decision and mail to all parties copies of the facts, findings and decision regarding the hearing within forty-five (45) days of the district's receipt of the parent's request or the filing of the district's request for a hearing, whichever is sooner;

12. To be accountable for compliance with all deadlines and procedures established by the statutes and rules for such hearings;

13. To maintain the confidentiality of all information; and

14. To rule on requests for specific extensions of time beyond the periods set forth in subsection (7) of this rule, at the request of either party.

(j) Civil action. A decision made in a hearing conducted under subsection (7) of this rule shall be final, unless, within thirty (30) days, a party aggrieved by the decision brings a civil action in state circuit court without regard to the amount in controversy, as provided in Section 1003.57(5), Florida Statutes. The state circuit court shall: receive the records of the administrative proceedings; hear, as appropriate, additional evidence at the request of a party; and, basing its decision on the preponderance of the evidence, shall grant the relief it determines appropriate. In the alternative, any party aggrieved by the administrative law judge's decision shall have the right to request an impartial review by the appropriate district court of appeal as provided by Sections 120.68 and 1003.57(5), Florida Statutes.

Specific Authority 1001.02(1)(2)(n), 1003.01(3)(a),(b), 1003.57(5) FS. Law Implemented 1001.42(4)(l) 1003.01(3)(a)(b), 1003.57(5), 1001.03(8) FS. History—New \_\_\_\_\_.

6A-6.03314 Procedural Safeguards for Students with Disabilities Enrolled in Private Schools by Their Parents. Providing parents, who have enrolled their children in private schools, and private school personnel with information regarding parents' rights under this rule is necessary so that they have information regarding the school district services that continue to be available to their children.

(1) Rights of children with disabilities enrolled by their parents in private schools. Except as provided in subsection (9) of Rule 6A-6.03311, FAC., a child with a disability who has been enrolled in a private school by his or her parent does not have an individual right to receive some or all of the specially designed instruction and related services that the child would receive if enrolled in a public school.

(2) Prior notice. The district shall provide parents with prior written notice a reasonable time before a school district proposes or refuses to initiate or change the identification, evaluation or educational placement of the student.

(a) The prior notice to the parents shall be written in language understandable to the general public and shall be provided in the native language or other mode of communication commonly used by the parents unless such communication is clearly not feasible to do so.

(b) If the parents' mode of communication is not a written language, the school district shall ensure:

1. That the notice is translated orally to the parents in their native language or mode of communication;

2. That the parents understand the content of the notice; and

3. That there is written documentation that the requirements of subparagraphs (2)(b)1. and (2)(b)2. of this rule have been met.

(c) The notice to the parents shall include:

1. A description of the action proposed or refused by the district, an explanation of why the district proposes or refuses to take the action, and a description of any options the district considered and the reasons why those options were rejected;

2. A description of each evaluation procedure, test, record, or report the district used as a basis for the proposal or refusal;

3. A description of any other factors relevant to the district's proposal or refusal;

4. A statement that the parents of a child with a disability have protections under the procedural safeguards specified in this rule.

5. The means by which a copy of a description of the procedural safeguards can be obtained.

6. Sources for parents to contact to obtain assistance understanding their procedural safeguards specified in this rule.

(3) Informed parental consent.

(a) Parents shall be fully informed of all information relevant to the activity for which consent is sought in his or her native language or other mode of communication unless it is clearly not feasible to do so.

(b) Written parental consent shall be obtained prior to the school district conducting a formal, individual evaluation to determine eligibility for specially designed instruction and related services, prior to initial provision of specially designed

instruction and related services, and prior to conducting a reevaluation for students with disabilities except as provided in paragraph (3)(e) of this rule.

(c) School districts shall document the attempts to secure consent from the parent as required by paragraphs (3)(a)-(b) of this rule.

(d) Parental consent is voluntary and may be revoked at any time before the school district's action occurs.

(e) Parental consent is required for reevaluation except when the school district can demonstrate that it has taken reasonable measures, consistent with those described in paragraph (3)(d) of Rule 6A-6.03028, FAC., to obtain that consent and the student's parents have failed to respond.

(4) Parents' opportunity to examine records and participate in meetings.

(a) The parents of a child with a disability shall be afforded, in accordance with Rule 6A-1.0955, FAC., Section 1002.22, Florida Statutes, and this rule, an opportunity to inspect and review their child's educational records maintained by the local school district.

(b) The right to inspect and review education records under this rule includes the right to have a representative of the parent inspect and review the records.

(c) The parents of a child with a disability must be afforded an opportunity to participate in meetings with school district personnel with respect to the identification, evaluation, or educational placement of their child.

(5) Mediation. The Department of Education provides parents of children with disabilities and school district personnel the opportunity to resolve disputes involving any matter related to a proposal or refusal to initiate or change the identification, evaluation or educational placement of the student through a mediation process. This mediation process is described in subsection (5) of Rule 6A-6.03311, FAC.

(6) State Complaint Procedures. The Department of Education shall provide parents of a child with a disability, enrolled in a private school by their parents, and other interested persons, the opportunity to resolve allegations that a school district has failed to meet the requirements of Title 34, Sections 300.451 through 300.462, Code of Federal Regulations (CFR). The Department of Education's complaint procedures are described in subsection (6) of Rule 6A-6.03311, FAC.

(7) Independent educational evaluation. The parents of a child with a disability, enrolled in a private school by their parents, have the right to an independent educational evaluation as described in subsection (7) of Rule 6A-6.03311, FAC.

(8) Due Process Hearings. Administrative due process hearings, as described in section (11) of Rule 6A-6.03311, FAC., are available if the parent of a child with a disability, enrolled in a private school by their parents, alleges that the school district failed to comply with the requirements for the

identification and evaluation of students with disabilities as described in 34 CFR 300.451 and 300.530 through 300.543. Such due process hearings are not available if the parent alleges that the school district failed to comply with the requirements of 34 CFR 300.452 – 300.462 including the provision of services indicated on the student's services plan.

(9) Placement of students with disabilities in private schools by their parents through participation in the Opportunity Scholarship Program.

(a) Funding for the scholarship shall be consistent with Section 1002.38(6), Florida Statutes.

(b) Specially designed instruction and related services provided to students participating in the Opportunity Scholarship Program shall be consistent with the requirements of 34 CFR 300.450 – 300.457 and paragraph (3)(o) of Rule 6A-6.03411, FAC.

Specific Authority 1001.02(1),(2)(n), 1003.01(3)(a),(b), 1003.57(5) FS. Law Implemented 1001.42(4)(l) 1003.01(3)(a),(b), 1003.57(5) FS., P.L. 105-17, 20 USC 1414 and 1415. History--New \_\_\_\_\_.

(Substantial rewording of Rule 6A-6.03411 follows. See Florida Administrative Code for present text.)

6A-6.03411 Policies and Special Programs and Procedures for the Provision of Specially Designed Instruction and Related Services for Exceptional Students.

This rule shall apply beginning with the procedures documents submitted for the 2004-05 school year and thereafter, in accordance with Section 1003.57(4), Florida Statutes. All students with disabilities aged three (3) through twenty-one (21) residing in the state have the right to a free appropriate public education (FAPE) consistent with the requirements of Title 34, Sections 300.300-300.313, Code of Federal Regulations (CFR). FAPE shall be available to any individual student with a disability who needs special education and related services, even though the student is advancing from grade to grade. The only exceptions to the provision of FAPE are for students who have exited with a standard diploma or the equivalent and certain students who are incarcerated in an adult correctional facility as referenced in 34 CFR 300.122 and 300.311. For a school district or agency to be eligible to receive state or federal funding for specially designed instruction and related services for exceptional students, it shall: develop a written statement of policies for providing an appropriate program of specially designed instruction and related services, as required by Section 1003.57(4), Florida Statutes; submit its written statement of procedures to the designated office in the Department of Education; and report the total number of exceptional students in the manner prescribed by the Department. Applicable state statutes, State Board of Education rules, and federal laws and regulations relating to the provision of specially designed instruction and related services to exceptional students shall serve as criteria for the review and approval of the procedures documents. This procedures document is intended to provide district and



school-based personnel, parents of exceptional students, and other interested persons information regarding the implementation of the state's and local school board's policies regarding exceptional student education programs. The procedures document shall be submitted in accordance with timelines required by the Department and shall include, but not be limited to, the requirements specified in subsections (2)-(5) of this rule.

(1) Definitions.

(a) Exceptional Student Education (ESE). ESE refers to the specially designed instruction that is provided to meet the unique needs of exceptional students who meet the eligibility criteria described in Rules 6A-6.03011 through 6A-6.03027, FAC.

(b) Early Intervention. Early intervention means developmental services that are designed to meet the developmental needs of an infant or toddler with a disability in any one (1) or more of the following areas:

1. Physical development;
2. Cognitive development;
3. Communication development;
4. Social or emotional development; or
5. Adaptive development.

(c) Special education. Special education refers to the specially designed instruction and related services, as defined in paragraphs (1)(d) and (e) of this rule, provided, at no cost to the parents, to meet the unique needs of students with disabilities. Special education includes instruction in the classroom, the home, in hospitals and institutions, and in other settings.

(d) Specially-Designed Instruction. Specially-designed instruction means adapting, as appropriate to the needs of an eligible student, the content, methodology, and/or delivery of instruction:

1. To address the unique needs of the student that result from the student's disability or giftedness; and
2. To ensure access to the general curriculum, so that the student can meet the district's expected proficiency levels, as appropriate.

(e) Related Services. Related services means transportation and such developmental, corrective, and other supportive services as are required to assist a child with a disability to benefit from special education, and includes audiology services, psychological services, physical and occupational therapy, recreation, including therapeutic recreation, early identification and assessment of disabilities in children, counseling services, including rehabilitation counseling, orientation and mobility services, and medical services for diagnostic or evaluation purposes. The term also includes school health services, social work services in schools, and parent counseling and training.

(f) Free Appropriate Public Education (FAPE). FAPE refers to special education and related services for students ages three (3) through twenty-one (21) that:

1. Are provided at public expense under the supervision and direction of the local school board without charge to the parent;
2. Meet the standards of the Department of Education;
3. Include preschool, elementary, or secondary programs in the state; and
4. Are provided in conformity with an individual educational plan (IEP) for students with disabilities that meet the requirements of Rule 6A-6.03028, FAC., or an educational plan (EP) for students who are gifted that meet the requirements of Rule 6A-6.030191, FAC., or a family support plan for students aged three (3) through five (5) in accordance with Rule 6A-6.03029, FAC.

(g) Screening. Screening is a process for ruling out sensory deficits that may interfere with the student's academic and behavioral progress as described in paragraph (2)(e) of Rule 6A-6.0331, FAC.

(h) General education interventions. General education interventions are required activities to address and resolve a student's learning or behavioral areas of concern prior to a referral for evaluation to determine eligibility for a student suspected of having a disability.

(i) Referral. Referral is the process whereby a written request is made for a formal individual evaluation to determine a student's eligibility for specially designed instruction and related services.

(j) Student evaluation. Student evaluation is the systematic examination of all areas related to the student's needs, including, if appropriate, health, vision, hearing, social and emotional status, general intelligence, academic and classroom performance, communicative status, and motor abilities.

(k) Dismissal. Dismissal is the process whereby a student is determined to no longer be in need of exceptional student education after the completion of the reevaluations described in subsection (7) of Rule 6A-6.0331, FAC.

(2) Provision of Specially Designed Instruction and Related Services. Specially designed instruction is required for each exceptional student and may be provided directly, in cooperation with other school districts or agencies, or through contractual arrangements with private schools.

(3) General Procedures. General procedures shall be implemented in accordance with Rule 6A-6.0331, FAC.

(a) Procedures for placement in the least restrictive environment. Procedures for placement determination shall be made in accordance with 34 CFR 300.552-300.553 and shall include consideration of the following:

1. To the maximum extent appropriate, students with disabilities in public or private institutions or other facilities are educated with students who are not disabled;

2. Special classes, separate schooling or other removal of exceptional students from the regular educational environment occurs only if the nature or severity of the exceptionality is such that education in regular classes with the use of supplementary aids and services cannot be achieved satisfactorily; and

3. A continuum of alternative placements, including regular class placement, is provided for exceptional students consistent with subsection (1) of Rule 6A-6.0311, FAC.

(b) Procedures for screening. Minimum requirements are:

1. Screening for vision and hearing problems shall be in accordance with the school district's school health plan and consistent with the requirements of paragraph (2)(e) of Rule 6A-6.0331, FAC.

2. Notwithstanding the provisions of Rules 6A-6.03011 through 6A-6.03018, 6A-6.03021 through 6A-6.03023, and 6A-6.03027, FAC., screening for speech, language, hearing, and vision shall be required prior to conducting an evaluation to determine the student's eligibility as a student with a disability.

(c) Procedures for general education interventions. The procedures for general education interventions shall be consistent with the requirements of Rule 6A-6.0331(2), FAC.

(d) Procedures for referral. Procedures for referral shall be consistent with the requirements of Rule 6A-6.0331(3), FAC.

(e) Procedures for student evaluation shall be implemented in accordance with the requirements of Rule 6A-6.0331, FAC.

(f) Procedures for determining eligibility. Procedures for determining eligibility shall include:

1. Determining eligibility for students with disabilities, in accordance with subsection (5) of Rule 6A-6.0331, FAC., whereby the staffing committee determines that the student has a disability, in accordance with eligibility criteria specified in Rules 6A-6.03011 through 6A-6.03018, 6A-6.03020 through 6A-6.03027, and 6A-6.03030 through 6A-6.03031, FAC., and needs specially designed instruction and related services.

2. Determining eligibility for students who are gifted, in accordance with subsection (5) of Rule 6A-6.0331, FAC., whereby the staffing committee determines that the student is gifted in accordance with eligibility criteria specified in Rule 6A-6.03019, FAC., and needs specially designed instruction.

3. For local school boards who elect to serve children with disabilities below the age of three (3) years in collaboration with the Part C Early Intervention Program, determining eligibility for infants and toddlers with disabilities in accordance with subsection (5) of Rule 6A-6.0331, FAC., whereby the staffing committee determines that the infant or toddler has a disability in accordance with the definition found in subparagraph (2)(a)1. of Rule 6A-6.03026, FAC. and needs early intervention services.

(g) Procedures for providing an individual educational plan (IEP), educational plan (EP), or family support plan (FSP), in accordance with Rules 6A-6.03028, 6A-6.030191, and 6A-6.03029, FAC.

(h) Procedures for temporary assignment of transferring exceptional students, in accordance with Rule 6A-6.0334, FAC.

(i) Procedures for reevaluation of students with disabilities in accordance with the requirements of subsection (7) of Rule 6A-6.0331, FAC.

(j) Procedures for participation of students with disabilities in statewide assessment, as required by Section 1008.22, Florida Statutes, including alternate assessment, in accordance with Rule 6A-1.0943, FAC.

(k) Procedures for dismissal.

(l) Procedures for the provision of procedural safeguards, in accordance with Rules 6A-6.03311, 6A-6.03032, and 6A-6.03313, FAC.

(m) Procedures for the transfer of rights for students with disabilities, in accordance with subsection (10) of Rule 6A-6.03311, FAC.

(n) Procedures for the provision of specially designed instruction and related services to students with disabilities enrolled in private schools by their parents shall be provided in accordance with 34 CFR 300.403 and 300.451-300.462.

1. Upon request, school districts shall provide parents of students with disabilities enrolled in private schools information regarding the availability of specially designed instruction and related services from the local school board consistent with the provisions of 34 CFR 300.450 – 300.455.

2. The location of any specially designed instruction and related services provided to these students shall be consistent with the requirements of 34 CFR 300.456, determined as a component of the service plan, and made in consultation with the parents and the participating private school. The determination of location shall be made after consideration of the needs of the student, the scheduling of the services to minimize disruption of instruction and the associated costs to the school board.

3. Specially designed instruction provided by the local school board to these students shall be consistent with the students' services plans, in accordance with Rule 6A-6.030281, FAC.

(o) Procedures for providing information and services to parents of students with disabilities eligible for opportunity scholarships, in accordance with Section 1002.38, Florida Statutes, and participating private schools. The Department of Education shall provide information and assistance to private schools regarding the identification and provision of special services to participating students and the creation of a fee schedule for these services. The Department of Education shall also provide parents of students with disabilities eligible for

opportunity scholarships information on the availability of specially designed instruction and related services from the local school board. School districts shall:

1. Include representatives from participating private schools in determining the specially designed instruction and related services that will continue to be available to participating students with disabilities.

2. Provide parents of students with disabilities eligible for opportunity scholarships information on the availability of specially designed instruction and related services from the local school board.

3. Determine the location of the specially designed instruction and related services consistent with subparagraph (3)(n) 2., of this rule. Special education services provided by the local school board to students with disabilities participating in the opportunity scholarship program shall be consistent with the students' services plans and Rule 6A-6.030281, FAC.

4. Expenditure of funds for services provided to these students shall be made in accordance with 34 CFR 300.453.

(p) Procedures for evaluating exceptional student education programs which shall include those areas identified by the Department of Education's continuous monitoring activities.

(q) Procedures for the provision of training to district and school-based administrators regarding the provision of specially designed instruction and related services to exceptional students.

(r) Discipline procedures for students with disabilities in accordance with Rule 6A-6.03312, FAC.

(s) Provision of extended school year services to eligible students with disabilities.

(t) Procedures for the provision of surrogate parents in accordance with Rule 6A-6.0333, FAC.

(6) Procedures for the delivery of specially designed instruction and related services to eligible exceptional students or early intervention services to eligible infants and toddlers with disabilities in accordance with Rules 6A-6.03011 through 6A-6.03027, and 6A-6.03030 through 6A-6.03031, FAC., which shall include:

(a) Criteria for eligibility.

(b) Any procedures for screening, referral, student evaluation, determination of eligibility, development of the individual educational plan, educational plan, or family support plan, reevaluation, or dismissal which are different from or in addition to the procedures described in subsection (3) of this rule.

(c) Instructional program to include philosophy, curriculum, and instructional support.

(7) Assurances. Assurances of the district school board or agency for meeting the requirements regarding:

(a) Written agreements in accordance with Rule 6A-6.0311(3)(a)-(b), FAC.

(b) Contractual arrangements with private schools or community facilities in accordance with Rule 6A-6.0361, FAC.,

(c) Child find activities to include the identification, location, and evaluation of all children residing in the state, including children with disabilities attending private schools, regardless of the severity of their disability, who are in need of specially designed instruction and related services. These procedures apply to highly mobile children with disabilities (such as migrant or homeless children) and children suspected of having a disability and in need of specially designed instruction even though they are advancing from grade to grade.

(d) Confidentiality of student records in accordance with Section 1002.22, Florida Statutes, Rule 6A-1.0955, FAC., and the notice to parents required by 34 CFR 300.561 and 300.573.

(e) Transition of children with disabilities from an early intervention program for infants and toddlers with disabilities to specially designed instruction and related services provided by the school board.

(f) Specially designed instruction and related services provided to students with disabilities enrolled in private schools by the school board in consultation with the students' parents and consistent with the requirements of Rule 6A-6.0361, FAC.

(g) Provision of nonacademic and extra curricular activities to ensure that each student with a disability participates with non-disabled children in those services and activities to the maximum extent appropriate to the needs of that child in accordance with 34 CFR 300.553.

(h) Opportunity scholarships that are provided in accordance with Section 1002.38, Florida Statutes. The local school board or the private school who provides the specially designed instruction and related services to participating students with disabilities shall receive the funding for these services as provided by Sections 1011.62(1)(e) and 1002.38(6), Florida Statutes.

Specific Authority 1001.02(1),(2)(n), 1003.01(3)(a),(b), 1003.57(4),(5) 229.053(1), 230.23(4)(m)4, FS. Law Implemented 1001.42(4)(l), 1003.01(3)(a),(b), 1002.38, 1001.03(8), 1003.57(4), 1011.62(1)(c) 228.041(18),(19), 229.565(3)(b),(c), 230.23(4)(m)4., 236.081(1)(e) FS. History—New 11-18-84, Amended 10-1-85, Formerly 6A-6.3411, Amended 12-14-93, \_\_\_\_\_, c.f. PL105-17, 20 USC S.1401 et seq., 34 CFR, Parts 76 and 300, PL-94-142, 20 USC S.1401 et seq., 34 C.F.R. Parts 76 and 300.

NAME OF PERSON ORIGINATING PROPOSED RULE:  
Shan Goff, K-12 Deputy Chancellor for Student Achievement,  
Department of Education

NAME OF SUPERVISOR OR PERSON WHO APPROVED  
THE PROPOSED RULE: Jim Warford, K-12 Chancellor,  
Department of Education

DATE PROPOSED RULE APPROVED BY AGENCY  
HEAD: February 2, 2004

DATE NOTICE OF PROPOSED RULE DEVELOPMENT  
PUBLISHED IN FAW: September 12, 2003

**DEPARTMENT OF EDUCATION**

**State Board of Education**

RULE TITLES:	RULE NOS.:
Definitions	6A-22.001
Rehabilitation Provider Qualifications	6A-22.002
Reemployment Assessments	6A-22.0031
Screening Process	6A-22.006
Reporting Services and Costs: Qualified Rehabilitation Provider and Employer or Carrier Responsibilities	6A-22.010
List of Forms	6A-22.011

**PURPOSE AND EFFECT:** These rules are amended to expand the definition of those who may be a qualified rehabilitation provider, include the documentation required for reemployment assessments, correct citations to educational programs, clarify what rehabilitation services are provided by a rehabilitation company, and who may provide those services, eliminate the trial work period, allow Registered Nurses who are also Certified Case Managers to be qualified rehabilitation providers, and document the identity of applicants for services. The effect will be rules which reflect current law and practices.

**SUMMARY:** These rules are to be amended to reflect current law and practices relating to rehabilitation reemployment.

**SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST:** None.

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

**SPECIFIC AUTHORITY:** 440.491 FS.

**LAW IMPLEMENTED:** 440.491 FS.

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

**TIME AND DATE:** 8:30 a.m., March 16, 2004

**PLACE:** 325 West Gaines Street, Tallahassee, Florida 32399-0400

**THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS:** Reginald L. Watkins, Chief, Bureau of Rehabilitation and Reemployment Services, 2728 Centerview Drive, Suite 101A, Tallahassee, FL 32399-0400, (850)245-3470

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

6A-22.001 Definitions.

(1) "Cooperative working agreement" means a written contractual agreement between the Department and a qualified rehabilitation provider or a public or private agency to provide comprehensive reemployment services such as on-the-job training development, job placement and follow up.

(2) "Customary residence" is the injured employee's place of permanent residence.

(3) "Customary vicinity" is the distance traveled by the injured employee from his customary residence to his place of employment at the time of injury.

(4) "Education program" means a formal course of study or a certificate program in a training and education facility, agency or institution operating under Chapters 1004, Parts II, III, and IV, 1005, 239, Part II, 240, Parts II and III or 246, F.S., or a career and technical education program defined in Section Chapter 1003.01(4)(c), 228.041(22)(e), F.S. Florida Statutes (1997), which states: "At the post secondary education level, courses of study that provide ~~vocational~~ competencies needed for entry into specific occupations or for advancement within an occupation." Outside of the State of Florida, an education program shall be approved as governed by comparable statutes of that state.

(5) "Ergonomic job analysis" is the objective study of the relationship among job demands, environmental conditions and human functional characteristics.

(6) "Good cause" is termination resulting from employee conduct:

(a) Evincing such willful or wanton disregard of an employer's interests as is found in deliberate violation or disregard of standards of behavior which the employer has the right to expect of his employee; or

(b) Carelessness or negligence of such a degree or recurrence as to manifest culpability, wrongful intent, or evil design, or to show an intentional and substantial disregard of an employer's interests or of the employee's duties and obligations to his employer.

(7) "Individualized written rehabilitation program" (IWRP) is an individualized written rehabilitation program as defined in the Rehabilitation Act of 1973, 29 U.S.C. §§ 701, et seq.

(8) "Labor market" means an area not to exceed a 50 mile radius of the injured employee's customary vicinity.

(9) "On-the-job training (OJT) contractor" is a qualified rehabilitation provider or employee of a public or private agency which has entered into a cooperative working agreement with the Department for the provision of on-the-job development and follow-up services.

(10) "On-the-job training (OJT) contract" is a contract between an employer, injured employee and the Department in which an employer agrees to hire an injured employee subject to the same working conditions and benefits as all other similarly situated employees. Pursuant to the contract, the employer shall provide training and adequate supervision to enable the injured employee to achieve predetermined competencies to ensure a return to suitable gainful employment with the contract employer at the end of the contract period.

(11) "Rehabilitation Company" means a business entity such as a corporation, ~~or partnership, or sole proprietorship~~ which employs or contracts to provide services pursuant to Section 440.491, ~~F.S.~~ Florida Statutes. All services provided by

a carrier or a rehabilitation company under Section 440.491, Florida Statutes, shall be provided only by an individual who is a qualified rehabilitation provider or a facility that is a qualified rehabilitation provider. Neither the employment status of the person providing the services, nor the main method of communication in providing the services negates the statutory requirement that a person providing such services must be a qualified rehabilitation provider.

(12) "Rehabilitation Facility" means an institution or agency accredited by the Commission on Accreditation of Rehabilitation Facilities (CARF) for a specific vocational rehabilitation program.

(13) "Test-site" is a Department approved location that may be inspected by the Department, to be used by a qualified rehabilitation provider for vocational evaluation and assessment services.

~~(14) "Trial period of reemployment" is a period of employment to validate whether an injured employee who has been determined to be permanently and totally disabled has been rehabilitated to the extent that he has reestablished an earning capacity.~~

~~(14)(15)~~ "Vocational evaluator" is a qualified individual employed by the Department or who holds the designation of a certified vocational evaluator and is approved by the Department to perform vocational evaluations.

~~(15)(16)~~ "Vocational specialist" means an individual who possesses:

(a) A master's degree in vocational rehabilitation (counseling, evaluation, adjustment); or

(b) Is certified by the Commission on Rehabilitation Counselor Certification, or by the Commission on Certification of Work Adjustment and Vocational Evaluation Specialists; and

(c) Is employed by a CARF-accredited facility.

Specific Authority 440.491(5),(6),(7),(8) FS. Law Implemented 440.491 FS. History—New 7-1-96, Amended 2-9-00, 6-26-01, Formerly 38F-55.001, Amended \_\_\_\_\_.

6A-22.002 Rehabilitation Provider Qualifications.

(1) The Department shall approve qualified rehabilitation providers who submit proof of meeting the following requirements:

(a) Rehabilitation nurse:

1. A current Florida license as a registered professional nurse, and

2. A current C.R.R.N. certificate as a Certified Rehabilitation Registered Nurse from the Association of Rehabilitation Nurses, or

3. A current C.O.H.N. certificate as a Certified Occupational Health Nurse from the American Board for Occupational Health Nurses, or

4. A current C.R.C. certificate as a Certified Rehabilitation Counselor from the Commission on Rehabilitation Counselor Certification, or

5. A current C.D.M.S. certificate as a Certified Disability Management Specialist from the Certification of Disability Management Specialists Commission, ~~or-~~

6. A current C.C.M. certificate as a Certified Case Manager from the Commission for Case Management Certification.

(b) Rehabilitation counselor:

1. A current C.R.C. certificate as a Certified Rehabilitation Counselor from the Commission on Rehabilitation Counselor Certification, or

2. A current C.D.M.S. certificate as a Certified Disability Management Specialist from the Certification of Disability Management Specialists Commission.

(c) Vocational evaluator: A current C.V.E. certificate as a Certified Vocational Evaluator from the Commission on Certification of Work Adjustment and Vocational Evaluation Specialists.

(d) Facilities, other than hospitals:

1. Current accreditation by CARF in a specific vocational rehabilitation program in which the facility will provide services, and

2. Designation on the application of the qualified rehabilitation counselor or vocational specialist who will be a member of the core team to provide services to injured employees.

(e) Companies:

1. Employ only qualified rehabilitation providers for the purpose of providing all services under Section 440.491, Florida Statutes and are,

2. Incorporated under Chapters 607 and 617, Florida Statutes F.S., or are a partnership under Chapter 620, Florida Statutes F.S.

3. Submit a non-refundable twenty-five (25) dollar biennial renewal fee, and a signed, typed and completed qualified rehabilitation provider application on form DWC-96, which is incorporated by reference and made a part of this rule to become effective April 2004 rule, for each business address providing any services under Section 440.491, Florida Statutes.

(2) Applicants applying for renewal shall submit a non-refundable twenty-five (25) dollar \$25.00 biennial renewal fee, and a signed, typed and completed qualified rehabilitation provider application on form DWC-96, ~~which is incorporated by reference into this rule,~~ and a copy of current certification and applicable licensure.

(a) Attendance at a Department sponsored or approved qualified rehabilitation provider workshop is required before the initial application and also before each renewal.

(b) An applicant for initial listing in the directory or an applicant whose qualified rehabilitation provider number has expired shall not provide services to injured employees until notification of an assigned provider number or renewal is received from the Department.

(3) Each applicant shall submit a signed, typed and completed form DWC-96, proof of attendance at a Department sponsored or approved qualified rehabilitation provider workshop, and a non-refundable check or money order in the amount of ~~twenty-five (25) dollars \$25.00~~ payable to Workers' Compensation Administrative Trust Fund to the Department of Education, Bureau of Rehabilitation and Reemployment Services, Provider Relations Section, 2728 Centerview Drive, 101A Forrest Building, Tallahassee, Florida 32399-0664/400. Illegible or unsigned applications and applications submitted without the application fee shall be returned. Facilities and companies must attach to this application a listing of all individuals listed in the directory as qualified rehabilitation providers who provide services under Section 440.491, Florida Statutes for the facility or company.

(4) Department approval of a qualified rehabilitation provider, facility or company shall be revoked for a period of six (6) months for one or more of the following:

- (a) Revocation of credentials or certification by the applicable certification or credentialing board.
- (b) Misrepresentation of credentials or certification.
- (c) Allowing a non-qualified rehabilitation provider to report and bill for services using an individual's, company's and or facility's qualified rehabilitation provider number.

(5) Employees of the Department, other public agencies and private agencies receiving federal or state funds to provide reemployment services are exempt from the requirements of Rule 6A-22.002(2) and (3), F.A.C.

Specific Authority 440.491(7) FS. Law Implemented 440.491(7) FS. History--New 7-1-96, Amended 6-26-01, Formerly 38F-55.002, Amended \_\_\_\_\_.

6A-22.0031 Reemployment Assessments.

(1) Reemployment assessments shall include documentation of the following:

(a) From the injured employee:

- 1. Discussion of the injured employee's understanding of their injury, treatment and prognosis.
- 2. Description of the injured employees job duties, including physical demands.
- 3. Discussion about accommodations that might allow the injured employee to return to work.
- 4. The injured employee's work history.
- 5. Factors that would impede the injured employee's ability to return to work, and
- 6. Results of any vocational, interest, academic, psychological or other testing if conducted with the injured employee.

(b) From the employer:

- 1. Discussion of the injured employee's job of injury, including a job description with the essential functions and physical demands of the job.
- 2. Discussion about the ability to return the injured employee to work in either the same job, modified job or different job, and
- 3. Discussion of possible accommodations that could allow the injured employee to return to work in either the same job, modified job or different job.

(c) From the Health Care Provider(s):

- 1. Discussion of the injured employee's diagnosis and prognosis.
- 2. Discussion of factors that could enhance or impede the healing process.
- 3. Anticipated release to return-to-work date and anticipated physical limitations, and
- 4. Anticipated Maximum Medical Improvement date and anticipated permanent physical imitations.

Specific Authority 440.491(1),(4),(8) FS. Law Implemented 440.491 FS. History--New \_\_\_\_\_.

6A-22.006 Screening Process.

(1) A request for screening is made using a form DWC-23. Before the Department will consider a request complete and initiate a screening, the injured employee must sign the form DWC-23.

(2) The screening process shall consist of:

- (a) A review of all available medical and vocational documentation relevant to the compensable injury to determine whether the injured employee is able to perform the duties of the pre-injury occupation; and
- (b) A review of the documentation which supports the payment of temporary partial disability and wage loss benefits to determine the injured employee's inability to obtain suitable gainful employment because of his injury; and
- (c) An interview with the injured employee.

(3) The carrier shall provide, within 10 business days of receipt of a request from the Department, any medical, vocational, and other requested documents or reports related to the injured employee's workers' compensation case.

(4) The Department may request the information directly from the authorized treating physician(s), or qualified rehabilitation provider(s), or obtain the services of an expert medical adviser to identify the injured employee's ability to return to work, permanent impairment rating, and permanent work restrictions.

(5) The Department shall not provide any reemployment services, including a vocational evaluation unless the injured employee provides documentation to establish identity and employment eligibility. Such documentation shall be consistent with the acceptable documents for verifying identity and

employment eligibility as required by the US Department of Justice, Immigration and Naturalization Service's Employment Eligibility Verification Form I-9.

~~(6)(5)~~ The Department shall not provide a vocational evaluation or any reemployment services when form DWC-23, which is signed by the injured employee, is received by the Department more than one (1) year from the date of last payment of indemnity benefits or the furnishing of remedial treatment, care, or attendance from the employer or carrier.

~~(7)(6)~~ Following a Department screening the Department shall not provide any additional reemployment services or refer the injured employee for a vocational evaluation:

(a) If the injured employee has filed a claim for permanent total disability benefits under Section 440.15(1), F.S., which the carrier has denied, wherein either the injured employee's medical condition or vocational capabilities are in dispute, until such time as an Office of the Judge of Compensation Claims adjudicates the injured employee's claim; or

(b) If the injured employee's medical condition is unresolved or unstable, until such time as the medical condition becomes stable; or

(c) If the injured employee has reached maximum medical improvement and returned to and maintained suitable gainful employment for at least 90 calendar days; or

(d) If the injured employee refuses to accept reemployment services from the Department.

~~(8)(7)~~ The Department shall not refer the injured employee for a vocational evaluation if the injured employee:

(a) Has returned to suitable gainful employment as a result of placement services provided by the Department; or

(b) Has no documented permanent physical restrictions related to the injury; or

(c) Has transferable skills which would allow return to work in suitable gainful employment; or

(d) Was terminated by the employer for good cause unrelated to the injury or any restrictions or limitations resulting therefrom; or

(e) Terminated suitable gainful employment for reasons unrelated to the injury.

Specific Authority 440.491(5),(6),(8) FS. Law Implemented 440.491 FS. History--New 7-1-96, Amended 6-26-01, Formerly 38F-55.009, Amended

6A-22.010 Reporting Services and Costs: Qualified Rehabilitation Provider and Employer or Carrier Responsibilities.

(1) through (3) No change.

(4) Upon request a qualified rehabilitation provider providing a Department sponsored reemployment service, including a vocational evaluation, shall make available to the Department information and documentation to certify that the

authorized service that was rendered is complete pursuant to Rule 6A-22.010, F.A.C., if such information or documentation is identified by the Department Division.

(8) Testing instruments, including work samples, used in vocational evaluations, reemployment assessments or other reemployment service activities may be administered and scored under the supervision of a qualified rehabilitation provider. Testing instruments shall be interpreted by the qualified rehabilitation provider with whom the contract for services is authorized.

Specific Authority 440.491(5),(6),(7) FS. Law Implemented 440.491 FS. History--New 7-1-96, Amended 6-26-01, Formerly 38F-55.013, Amended

6A-22.011 List of Forms.

(1) Forms DWC-21, DWC-22, DWC-23, DWC-24 and DWC-96 and accompanying instructions are incorporated by reference as part of this rule to become effective April 2004 chapter. Each form shall be typed or legibly completed in order for the form to be considered properly filed or submitted with the Department.

(a) Department reemployment services billing form shall be submitted to the Department on form DWC-21, ~~dated 6/26/01~~.

(b) Reemployment status review form shall be submitted to the Department on form DWC-22, ~~dated 6/26/01~~.

(c) Request for screening form shall be submitted to the Department on form DWC-23, ~~dated 6/26/01~~.

(d) ~~Agency~~ Department and student agreement for sponsorship of training and education form shall be completed on form DWC-24, ~~dated 6/26/01~~.

(e) Qualified rehabilitation provider application shall be submitted to the Department on form DWC-96, ~~dated 6/26/01~~.

(2) A copy of the forms and accompanying instructions incorporated by subsection 6A-22.011(1), F.A.C., may be obtained from the Department of Education, Bureau of Rehabilitation and Reemployment Services, 2728 Centerview Drive, Suite 101A, Forrest Building, Tallahassee, Florida 32399-~~0664~~0400. Copies are also available at the following Department web site: <http://www.firn.edu/doe/rules/rules.htm>.

Specific Authority 440.491(5),(6),(7),(8) FS. Law Implemented 440.491 FS. History--New 7-1-96, Amended 6-26-01, Formerly 38F-55.014, Amended

NAME OF PERSON ORIGINATING PROPOSED RULE: Reginald L. Watkins, Chief, Bureau of Rehabilitation & Reemployment Services, Department of Education

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Loretta Costin, Director, Division of Vocational Rehabilitation, Department of Education

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: February 2, 2004

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: October 24, 2003







THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Perri King Dale, Office of the General Counsel, Department of Corrections, 2601 Blair Stone Road, Tallahassee, Florida 32399-2500

THE FULL TEXT OF THE PROPOSED RULE IS:

33-601.800 Close Management.

(1) Definitions.

(a) Housing supervisor – a correctional officer sergeant, or above, who is in charge of the close management confinement unit for a particular shift.

(b) through (g) No change.

(h) Critical Event – inmate involvement, after the CM team decision placement, in one or more of the following events or behaviors: assignment to suicide observation status attempt or other action that could have caused serious bodily harm; homicide; attempted homicide; escape; attempted escape; physical assault; attempted physical assault.

(i) Review – where used herein, refers to the evaluation of pertinent information or documentation concerning an inmate’s close management confinement status to determine if changes or modifications are required or recommended.

(j) No change.

(k) Institutional Classification Team (ICT) – the team consisting of the warden or assistant warden, classification supervisor, and a chief of security, that is responsible for making work, program, housing and inmate status decisions at a facility and for making other recommendations to the State Classification Office (SCO). The only exception to the above listed membership of the ICT is the makeup of the ICT at the designated CM facilities when considering the placement, continuance, modification, or removal of inmates from close management units. For these purposes, multiple ICTs consisting of the following members can be utilized:

1. Warden, a chief of security or a correctional officer with a rank and position no less than CM housing lieutenant, and the classification supervisor or a senior classification officer who does not have the inmate on his or her caseload; or

2. Assistant Warden for Operations, a chief of security or a correctional officer with a rank and position no less than CM housing lieutenant, and the classification supervisor or in his or her absence from the institution the acting classification supervisor; or

3. Assistant Warden for Programs, a chief of security or in his or her absence from the institution the acting chief of security, and the classification supervisor or a senior classification officer who does not have the inmate on his or her assigned caseload.

(l) through (p) No change.

(q) State Classification Office (SCO) – a staff member at the central office level who is responsible for the review of inmate classification decisions. Duties include approving, modifying or rejecting ICT recommendations.

(2) Levels of Close Management.

(a) Close Management I (CMI).

1. No change.

2. An inmate assigned to CMI will be ineligible for a work assignment. An inmate may be placed in CMI without having previously been in CMII or III. Any of the following factors constitutes a basis for placement of an inmate in CMI status:

a. through k. No change.

~~l. An inmate who meets the criteria for placement in CMII or CMIII and has been in close management previously during the current period of incarceration;~~

~~l.m. An inmate who is currently in CMII or CMIII and shows an inability to adjust as evidenced by subsequent major rule violation(s) continued disciplinary actions or unsatisfactory ratings;~~

~~m.n. No change.~~

(b) Close Management II (CMII).

1. CMII is restrictive cell housing, which may or may not be restricted to single cell housing.

2. An inmate may be placed into CMII without having previously been placed in CMIII. Any of the following factors constitutes a basis for placement of an inmate in CMII status:

a. through h. No change.

~~i. Has met the criteria for placement in CMIII and has been in close management previously during the current period of incarceration; and~~

~~l.j. Is currently in CM III and shows an inability to adjust as evidenced by subsequent major rule violation(s) continued disciplinary action or unsatisfactory ratings.~~

(c) No change.

(3) Procedures for Placement in Close Management.

(a) through (b) No change.

(c) The classification officer shall complete section I of the Report of Close Management, Form DC6-233C. Form DC6-233C is incorporated by reference in subsection (19) of this rule. Upon completion of section I, the classification officer shall forward Form DC6-233C to the classification supervisor. The classification officer shall ensure that the inmate receives a copy of the Report of Close Management, Form DC6-233C, to prepare for the close management review. The inmate will be given a minimum of 48 hours to prepare for the review unless waived by completing a Close Management Waiver, Form DC6-265. Form DC6-265 is incorporated by reference in subsection (19) of this rule. The inmate may present information verbally or in writing for consideration by the ICT. The staff member delivering Form DC6-233C to the inmate shall document on Form DC6-233C that the inmate was informed of his or her allotted time to prepare for the review.

~~(d)~~<sup>(e)</sup> Prior to docketing an inmate's case for close management review, the classification supervisor will submit a referral to the senior psychologist for evaluation of the inmate utilizing the Close Management Referral Assessment, DC6-128. Form DC6-128 is incorporated by reference in subsection (19) of this rule.

~~(e)~~<sup>(d)</sup> No change.

~~(f)~~<sup>(e)</sup> Upon receiving the completed close management referral assessment, the classification supervisor will submit the case for ICT Docket. ~~The ICT will evaluate the recommendations for close management placement and the mental health assessment, interview the inmate, and document its findings and recommendations on the Report of Close Management, Form DC6-233C. Form DC6-233C is incorporated by reference in subsection (19) of this rule. The inmate will be given a minimum of forty-eight hours to prepare for the review unless waived by completing a Close Management Waiver, Form DC6-265. Form DC6-265 is incorporated by reference in subsection (19) of this rule. The inmate may present information verbally or in writing for consideration by the ICT. The team will document on Form DC6-233C that the inmate was informed of his or her allotted time to prepare for the review. The ICT is authorized to postpone the case review to allow an inmate additional time to prepare. If an extension of time is given, the team will document such postponement on form DC6-233C.~~

~~(f)~~ A staff assistant will be assigned to assist an inmate when the team determines the inmate is illiterate or does not understand English, has a disability that would hinder his ability to represent himself, or when the complexity of the issue makes it unlikely that the inmate will be able to properly represent himself or herself. This assistance can also be offered at the inmate's request. In such event, it is the responsibility of the staff member to explain the close management recommendation and procedures to the inmate. Even though the staff member will be authorized to assist an inmate during the hearing and aid the inmate in presenting his or her position, the staff member will not take the position of an advocate or defense attorney for the inmate.

(g) ICT Hearing. The ICT shall evaluate the recommendations for close management placement and the mental health assessment, interview the inmate, and consider the information provided by the inmate. The ICT shall ensure that the inmate was given a minimum of 48 hours to prepare for the review unless waived by completing a Close Management Waiver, Form DC6-265. The team shall document on Form DC6-233C that the inmate was allowed at least 48 hours to prepare for the review. The ICT shall inquire whether or not the inmate is in need of staff assistance. A staff assistant shall be assigned to assist an inmate when the team determines that the inmate is illiterate or does not understand English, has a disability that would hinder the inmate's ability to represent him or herself, or when the complexity of the issue

makes it unlikely that the inmate will be able to properly represent him or herself. This assistance can also be provided at the inmate's request. In such event, it is the responsibility of the staff member to explain the close management recommendation and procedures to the inmate. Even though the staff member will be authorized to assist an inmate during the hearing and aid the inmate in presenting his or her position, the staff member shall not take the position of an advocate or defense attorney for the inmate. The ICT is authorized to postpone the case review to allow an inmate additional time to prepare. If an extension of time is given, the team shall document the postponement on Form DC6-233C. The inmate will appear at the hearing unless he or she demonstrates disruptive behavior, either before or during the hearing, that impedes the process or the inmate waives his or her right to be present at the close management hearing. If the inmate waives his or right to be present at the close management hearing, the Close Management Waiver, Form DC6-265, shall be completed. In such cases, the review will be completed without the inmate, and, the absence, or removal, or presence of the inmate will be documented on Form DC6-233C. After the interview and review of all pertinent information including the mental health assessment, the ICT will make a recommendation to the SCO. This recommendation will be documented on Form DC6-233C. The ICT will inform the inmate of the basis for its decision and provide a copy of the team's decision to the inmate after the conclusion of the hearing. The ICT classification member supervisor will ensure that enter the team results are entered in OBIS.

(h) The SCO will review the recommendations of the ICT, the Close Management Referral Assessment, Form DC6-128, and other pertinent information before making the final decision regarding close management placement. This review will be on site and the SCO may interview the inmate, except in situations requiring more immediate action. In these cases, the SCO will review the documentation in OBIS. The SCO will approve, disapprove, or modify the ICT's recommendation or obtain further information from the team before reaching a final decision. If the team's recommendation is disapproved or modified by the SCO, the inmate will be informed of the decision in writing by the SCO. Inmate notification will not be required when the SCO has approved the ICT's recommendation. After the review is complete, the SCO will document its decision in OBIS. A copy of Form DC6-233C will be kept in the inmate record file.

(4) Transfers From a Non-CM Institution.

(a) Once a CM recommendation is made, the ICT team will also enter a transfer the recommendation in OBIS and provide a copy of the DC6-233C reflecting the decision and signatures to the SCO. A copy of the DC6-233C will be kept in the inmate record file.

(b) The inmate will remain in administrative or current confinement status pending review and final decision of the SCO. If the inmate's release date from disciplinary confinement expires, the inmate shall be placed in administrative confinement until the review and decision is made by the SCO. ~~The SCO will review the recommendation from the ICT and either approve or disapprove the recommendation.~~

(c) If placement in CM is approved, the SCO will document its decision in OBIS and notify the Bureau of Sentence Structure and Transportation for future transfer of the inmate to an appropriate CM facility.

(d) If the CM recommendation is disapproved, the SCO will determine if a transfer for other management reasons should be approved. The SCO will document its decision in OBIS. If a transfer is approved, the SCO will notify the Bureau of Sentence Structure and Transportation for future transfer of the inmate to an appropriate non-CM facility provide written notification to the ICT of the requesting institution on its decision not to transfer. After the review is complete, the SCO will document its decision in OBIS.

(5) Transfers While Inmate is in CM Status.

(a) No change.

(b) To transfer an inmate in close management status to another close management facility, the following will occur:

1. No change.

2. Transfers will be limited to those inmates in close management:

a. Who are being recommended for a close management level that the sending institution is not capable of providing, based on institutional mission or close management stratification issues, or

b. Situations that involve special reviews, Inmates with protection or threat reviews involving inmates housed at the same CM facility will be handled within the CM unit and, unless exceptional circumstances exist, will not be transferred from one CM institution to another based solely on these reviews, or

c. Situations that require an inmate to be moved to a higher level facility.

(c) The recommendation by the ICT to transfer a close management inmate will be decided by the SCO. If approved, the SCO will submit notification to the Bureau of Sentence Structure and Transportation for transfer of the inmate. ~~(d)~~ The receiving institution shall then place the inmate directly into the approved close management status without completing an additional evaluation.

(d) If the transfer recommendation is disapproved, the SCO will provide written notification to the ICT of the requesting institution of its decision not to transfer.

(e) After the review is complete, the SCO will document its decision in OBIS.

(6) Close Management Facilities.

(a) through (d) No change.

(e) Water Supply to CM Units. All close management cells will be equipped with toilet facilities and running water for drinking and other sanitary purposes. Water in the cell can be turned off when necessary due to misbehavior. Misbehavior is defined as any activity exhibited by an inmate which causes an interruption in the water system and its proper function, such as intentionally clogging a toilet bowl or sink with paper in order to then flood the housing area. It also includes the intentional misuse of the water for such purposes as throwing it on staff or other inmates, or mixing it with another substance for an unauthorized purpose (inmate mixes water with soap or shampoo and apply to the floor or himself or herself to hinder cell extraction). In such event, the inmate will be furnished with an adequate supply of drinking water by other means to prevent dehydration. This action can be taken in addition to formal disciplinary action being taken against the inmate pursuant to established procedures regarding disciplinary action. Any misbehavior from an inmate and subsequent action by security staff will be documented on the Close Management Daily Record of Segregation, Form DC6-229A. Form DC6-229A is incorporated by reference in subsection (19) of this rule.

(f) No change.

(g) The close management cells will be physically separate from other confinement cells; whenever possible given the physical design of the facility and the number of inmates housed in a close management cell shall not exceed the number of bunks in the cell. Whenever such location is not possible, and have physical barriers shall be placed to preclude the reduce cross association of those in close management with those in other statuses confinement when such locations are not possible. Close management cells shall They will be built to permit verbal communication and unobstructed observation by the staff. The close management cells will not exceed the number of bunks in the cell, whenever possible, given the physical design of the facility and the number of inmates housed in close management.

(h) Inmates shall be weighed upon entering close management, at least once a week while in close management, and upon leaving close management. The weight of the inmate shall be documented on Form DC6-229A, Close Management Daily Record of Segregation.

(7) No change.

(8) Behavioral Risk Assessment.

(a) The MDST shall determine behavioral risk of each CM team decision inmate by completing the Behavioral Risk Assessment (BRA), Form DC4-729. Form DC4-729 is incorporated by reference in subsection (19) of this rule.

(b) Behavioral risk shall be determined as follows:

1. through 2. No change

3. Within 120 days of the initial (14 day) assessment; and every 180 days thereafter. Each time that the MDST reviews the ISP.

(c) The BRA shall be completed at the above intervals regardless of S-grade or housing assignment, including, for example, when the CM inmate is housed outside the CM unit in order to access necessary medical or mental health care.

(c) through (d) renumbered (d) through (e) No change.

~~(f)(e)~~ The SCO shall consider results from all the behavioral risk assessments; and all results from mental health evaluations that have been completed since the inmate's last formal assessment and evaluation, and other information relevant to institutional adjustment, staff and inmate safety, and institutional security in its review of ICT recommendations made after CM placement.

(9) Mental Health Services.

(a) Chapter 33-404, F.A.C., Mental Health Services, shall apply to CM inmates except where otherwise specified herein.

(b) CM inmates shall be allowed out of their cells to receive mental health services as specified in an ISP unless, within the past ~~4~~ 48 hours, the inmate has displayed hostile, threatening, or other behavior that could present a danger to others. Security staff shall determine the level of restraint required while CM inmates access services outside their cells.

(10) Conditions and Privileges in CM Units.

(a) Clothing – Inmates in close management shall be provided the same clothing and clothing exchange as the general inmate population unless there are facts to suggest that on an individual basis exceptions are necessary for the welfare of the inmate or the security of the institution. In such cases, the exceptions shall be documented on Form DC6-229A and approved by the chief of security. Shower slides may be substituted for regulation shoes. Any item may be removed from the cell in order to prevent the inmate from inflicting injury to himself or herself or others or to prevent the destruction of property or equipment. If an inmate's clothing is removed, a modesty garment shall be immediately obtained and given to the inmate. If the inmate chooses not to wear the garment, the garment shall be left in the cell and this action shall be documented on Form DC6-229A, Close Management Daily Record of Segregation. Under no circumstances shall an inmate be left without a means to cover himself or herself.

(b) Bedding and linen – Bedding and linen for inmates in close management shall be issued and exchanged the same as is provided to the general inmate population. Any exceptions shall be based on potential harm to individuals or a threat to the security of the institution. The shift supervisor or the senior correctional officer must approve the action initially. Such exceptions shall be documented on Form DC6-229A and the chief of security shall make the final decision in regard to action no later than the next working day following the action.

(c) Personal Property – Inmates shall be allowed to retain personal property including stamps, watches, rings, writing paper, envelopes and health and comfort items unless there is a indication of a security problem. Close management inmates at all levels shall be allowed to possess a “walkman” type radio with approved headphones as is allowed for general population inmates. Exceptions or removal of any item will be documented on the DC6-229A. An Inmate Impounded Personal Property List, Form DC6-220, will be completed by security staff and signed by the inmate designating what personal items were removed. The original will then be placed in the inmate's property file and a copy of the form will be given to the inmate for his or her records. If items of clothing, bedding or personal property are removed in order to prevent the inmate from inflicting injury to himself or herself or others, ~~or~~ to prevent the destruction of property or equipment, or to prevent the inmate from impeding security staff from accomplishing functions essential to the unit and institutional security, staff shall re-assess the need for continued restriction every 72 hours thereafter. The warden, based on this assessment, will make the final determination on the continued denial or return of the items. The items will be returned to the inmate when no further behavior or threat of behavior of the type leading to the restriction has occurred. Form DC6-220 is incorporated by reference in Rule 33-602.220, F.A.C.

(d) Comfort Items – Inmates in close management shall be permitted personal hygiene items and other medically needed or prescribed items such as eye glasses or hearing aids, except when security requirements dictate otherwise. Inmates in close management shall not possess any products that contain baby oil, mineral oil, cocoa butter, or alcohol. In the event certain items that inmates in close management are not normally prohibited from possessing are removed, the senior correctional officer shall be notified and must approve the action taken, or the item must be returned to the inmate. Action taken shall be recorded on the Close Management Daily Record of Segregation, Form DC6-229A, which must be reviewed by the chief of security. When any personal property is removed, an Inmate Impounded Personal Property List, Form DC6-220, designating what personal items were removed, shall be completed by security staff and signed by the inmate. The following comfort items shall be provided as a minimum: toothbrush, toothpaste, bar of soap, towel or paper towels, and feminine hygiene products for women, and toilet tissue.

(e) Personal Hygiene – Inmates in close management shall meet the same standards in regard to personal hygiene as required of the general inmate population.

1. At a minimum each inmate in close management confinement shall shower three times per week and on days that the inmate works.

2. through 3. No change.

(f) Diet and Meals – All inmates in close management shall receive normal institutional meals as are available to the general inmate population except that if any item on the regular menu might create a security problem in the close management confinement area, then another item of comparable quality shall be substituted. An alternative meal (special management meal) may be provided for any inmate in close management who uses food or food service equipment in a manner that is hazardous to himself or herself, staff, or other inmates. The issuance of a special management meal will be in strict accordance with Rule 33-602.223, F.A.C. Any deviation from established meal service is to be documented by security staff on the Close Management Daily Record of Segregation, Form DC6-229A.

(g) Canteen Items.

1. Inmates in CMI and II, following 30 days in close management status and having no major rule violations during this period satisfactory adjustment, will be allowed to make canteen purchases once per week unless restricted by disciplinary action. Inmates in CMI and II will be allowed to purchase up to five non-food items and five food items. In making this determination, with the exception of stamps and notebook paper, it is the number of items that is counted not the type of item. For example, three security pens counts as three items, not one item. Twenty-five stamps or fewer will count as one item and two packages or less of notebook paper will count as one item.

2. Inmates in CMIII, following 30 days in close management status and having no major rule violations during this period satisfactory adjustment, will be allowed to make canteen purchases once each week unless restricted by disciplinary action. Inmates in CMIII will be allowed to purchase up to five non-food items and ten food items. In making the determination, with the exception of stamps and notebook paper, it is the number of items that is counted not the type of item. For example, three packages of cookies count as three items, not one item.

3. No change.

(h) No change.

(i) Legal Access – An inmate in close management will have access to his or her personal legal papers and law books and have correspondence access with the law library. Access to the law library will be obtained through delivery of research materials to an inmate's cell, and access to visits with research aides. Although the inmate may not be represented by an attorney at any administrative hearing under this rule, access to an attorney or aide to that attorney will be granted for legal visits at any reasonable time during normal business hours. Indigent inmates will be provided paper and writing utensils in order to prepare legal papers. Inmates who are not indigent will be allowed to purchase paper and envelopes for this purpose by completing Form DC6-251, CMI and II Canteen Order, or

Form DC6-252, CMIII Canteen Order, within the stated time frames. Forms DC6-251 and DC6-252 are incorporated by reference in subsection (19) of this rule. Typewriters or typing services are not considered required items and will not be permitted in close management ~~confinement~~ cells. Inmates with disabilities that hinder the preparation of legal correspondence will be allowed the use of auxiliary aids (writer/reader). An inmate who is provided an auxiliary aid shall also be allowed access to a research aide for the purpose of preparing legal documents, legal mail, and filing grievances.

(j) No change.

(k) Writing utensils – Inmates in close management shall possess only security pens. Other types of pens or pencils shall be confiscated and stored until the inmate is released from close management status. If a security pen is not available, the inmate shall be allowed to sign out a regular pen from the confinement unit officer. All care shall be taken to ensure that an inmate who requests access to a pen in order to prepare legal documents or legal mail or to file a grievance with the department has access to a pen for a time period sufficient to prepare the legal mail, documents, or grievances. Inmates shall be allowed to purchase security pens within the specified time frames. An inmate who has been provided a "writer/reader" will be allowed access to such for the purpose of reading and preparing correspondence.

(l) Reading materials – Reading materials, including scriptural or devotional materials and books that are in compliance with admissibility requirements, are allowed in close management units unless there is an indication of a threat to the safety, security, or sanitation of the institution. If it is determined that there is a safety, security or sanitation risk, the items will be removed. Such removal of reading materials will be documented on Form DC6-229A, Close Management Daily Record of Segregation. If items are removed in order to prevent the inmate from inflicting injury to himself or herself or others or to prevent the destruction of property or equipment, staff shall re-assess the need for continued restriction every 72 hours thereafter. The warden, based on this assessment, will make the final determination on the continued denial or return of the items. The items will be returned to the inmate when no further behavior or threat of behavior of the type leading to the restriction has occurred. An inmate who receives services from the Bureau of Braille and Talking Book library will be allowed to have his tape player, devotional or scriptural material tapes, and other books on tape which are in compliance with Rule 33-501.401, F.A.C.

(m) Exercise – Those inmates confined on a 24-hour basis excluding showers and clinic trips may exercise in their cells. If the inmate requests a physical fitness program handout, the wellness specialist or the close management confinement officer shall provide the inmate with an in-cell exercise guide and document such on the Close Management Daily Record of Segregation, Form DC6-229A. However, an exercise schedule

shall be implemented to ensure a minimum of ~~six~~ three hours per week (~~two hours three days per week~~) of exercise out of doors. The assignment and participation of an inmate on the restricted labor squad or other outside work squad required to work outside at least one day per week will satisfy the minimum exercise requirements for the week. Such exercise periods shall be documented on Form DC6-229A. The ICT is authorized to restrict exercise for an individual inmate only when the inmate is found guilty of a major rule violation as defined in this rule. ~~In this instance, a major rule violation is defined as: any assault, battery or attempted assault or battery; any spoken or written threat towards any person; inciting, attempting to incite or participating in any riot, strike, mutinous act or disturbance; fighting; possession of weapons, ammunition, explosives or escape paraphernalia; escape or escape attempt.~~ Inmates shall be notified in writing of this decision and may appeal through the grievance procedure. The denial of exercise shall be for no more than 15 days per incident and for no longer than 30 days in cumulative length. Medical restrictions determined by health services staff can also place limitations on the amount and type of exercise permitted. Such restrictions of exercise periods will be documented on the Close Management Daily Record of Segregation, Form DC6-229A. A disabled inmate who is unable to participate in the normal exercise program will have an exercise program developed for him that will accomplish the need for exercise and take into account the particular inmate's limitations. Close management inmates shall be allowed equal access to outdoor exercise areas with exercise stations.

(n) No change.

(11) Programs and Privileges in Close Management Units.

(a) While in a close management unit, an inmate's movement within the institution and contacts with other individuals will be restricted. Privileges will also be limited depending on the specific close management level. If an inmate transfers to a less restrictive level due to satisfactory adjustment, the adjustment period required for any privilege shall be waived. Upon placement in CM, inmates shall receive a copy of the Close Management Housing Unit Instructions, Form N11-046. Form N11-046 is incorporated by reference in subsection (19) of this rule.

(b) CMI. Privileges for an inmate assigned to CMI ~~who maintains a satisfactory adjustment~~ are as follows:

1. through 3. No change.

4. Subscribe to one magazine and newspaper ~~as provided for in Rule 33-210.101, F.A.C.;~~ and possess no more than four issues of each at any given time; an inmate who receives services from the Bureau of Braille and Talking Book Library will be allowed to receive up to four issues of a magazine;

5. Make one telephone call of the length allowed by Rule 33-602.205, F.A.C. every 30 days ~~after following~~ 30 days in close management status and having no major rule violations

~~during this period of satisfactory adjustment~~ as well as emergency telephone calls and telephone calls to an attorney as explained in Rule 33-602.205, F.A.C.;

6. Unless restricted pursuant to Rule 33-601.731, F.A.C., CMI inmates shall be eligible to receive one two-hour non-contact personal visit by appointment;

a. ~~After~~ After completing 30 days in close management status and having no major rule violations during this period.

b. If found guilty of any major rule violations while assigned to CMI, the inmate is eligible to be considered for visits 30 days following release from disciplinary confinement or the disciplinary hearing, if a penalty other than disciplinary confinement was imposed;

~~c.7.~~ The inmate is eligible to receive one two-hour non-contact personal visit by appointment after each subsequent 30 day period with no major rule violations while in the status unless security or safety concerns would preclude a visit.

d. All visits for CMI inmates will be non-contact visits.

(c) CMII. In addition to the programs provided for CM I inmates and those privileges outlined in (11)(b)1.-4. of this rule, the following privileges are authorized:

1. Unless restricted pursuant to Rule 33-601.731, F.A.C., CMII inmates will be eligible to receive one two-hour non-contact personal visit by appointment;

a. After completing 30 days in close management status and having no major rule violations during this period since being assigned to close management.

b. If found guilty of any major rule violations while assigned to CMII, the inmate is eligible to be considered for a visit 30 days following release from disciplinary status or the disciplinary hearing if a penalty other than disciplinary confinement was imposed, ~~with no major rule violations.~~

c. The inmate is eligible to receive personal visits by appointment after each subsequent 14 day period with no major rule violations while in the status unless security and safety concerns would preclude a visit.

d. All visits for inmates in CMII will be non-contact visits.

2. CMII inmates shall be allowed to make one telephone call of the length allowed by Rule 33-602.205, F.A.C., every 14 days after 30 days in close management status and having no major rule violations during this period of satisfactory adjustment as well as emergency telephone calls and calls to attorneys as provided in Rule 33-602.205, F.A.C.

3. CMII inmates, following 30 days in close management status and having no major rule violations during this period of satisfactory adjustment, shall be allowed access to the day room area for social purposes to include watching television programs for up to two days per week, not to exceed 4 hours per occasion or to extend beyond 10:00 PM. This is allowed only when it does not conflict with organized program activities. The number of participants at any one time will be determined by the senior correctional officer shift supervisor in

consultation with the duty warden. This determination will be based on considerations such as day room size, availability of seating, and safety and security issues associated with the availability of supervising staff as well as staff available for response should a problem develop. CMII inmates will be restrained during the above-described dayroom access unless determined by the senior correctional officer chief of security that the inmate can safely participate without restraints.

4. Participation in educational and program opportunities shall be in-cell or out-of-cell as determined by security and programs staff.

(d) CMIII. In addition to the programs provided above for CMI inmates, and those privileges outlined in subparagraph (11)(b)1.-4. of this rule, the following privileges are authorized:

1. CMIII inmates will be entitled to:

a. Unless restricted pursuant to Rule 33-601.731, F.A.C., CMIII inmates shall be eligible to receive oOne two-hour contact personal visit by appointment after completing 30 days in close management status and having no major rule violations during this period since being assigned to close management.

b. CMIII inmates shall be subject to placement on non-contact status as outlined in Rule 33-601.735709, F.A.C.

~~c.~~ If found guilty of a disciplinary infraction while assigned to CMIII, the inmate is eligible to be considered for visits 14 days following release from disciplinary status or the disciplinary hearing if a penalty other than disciplinary confinement was imposed, ~~and the inmate has no major rule violations.~~

~~d.~~e. The inmate is eligible to receive one two-hour contact personal visit by appointment after each subsequent 14 day period with no major rule violations during this period while in the status unless security or safety concern would preclude a visit. The warden will determine the level of supervision and restraint required.

2. CMIII inmates, following Day room privileges after 30 days in close management status and having no major rule violations during this period satisfactory adjustment shall be allowed access to the day room area for social purposes to include watching television programs for up to five days per week, not to exceed 4 hours per occasion or to extend beyond 10:00 p.m.. This is allowed only when it does not conflict with organized program activities. The number of participants at any one time will be determined by the senior correctional officer shift supervisor in consultation with the duty warden. This determination will be based on considerations such as day room size, availability of seating, and safety and security issues associated with the availability of supervising staff as well as staff available for response should a problem develop. CMIII inmates shall not be restrained for dayroom activities unless security or safety concerns require otherwise.

3. CMIII inmates shall be allowed to make one telephone call of the length allowed by Rule 33-602.205, F.A.C., every seven days after 30 days in close management status and having no major rule violations during this period of satisfactory adjustment as well as emergency telephone calls and calls to attorneys as provided in Rule 33-602.205, F.A.C.

(12) Suspension of Privileges. The ICT shall suspend an inmate's privileges if security and safety concerns would preclude an inmate from receiving certain privileges. Any action taken by the ICT regarding the suspension or limiting of privileges will be documented on the Close Management Daily Record of Segregation, Form DC6-229A. Privileges suspended by the ICT in excess of 30 days will require the review and approval of the SCO.

(13) through (14) No change.

(15) Contact by Staff.

(a) The following staff members shall be required to officially inspect and tour the close management unit. All visits by staff shall be documented on the Inspection of Special Housing Record, Form DC6-228. Form DC6-228 is incorporated by reference in subsection (19) of this rule. The staff member shall also document his or her visit on the Close Management Daily Record of Segregation, Form DC6-229A, if there is any discussion of significance, action or behavior of the inmate, or any other important evidential information which may have an influence or effect on the status of confinement. These visits shall be conducted at a minimum of:

1. through 9. No change.

(16) Review of Close Management.

(a) An ICT member shall review inmates in close management at least once every week for the first 60 days and once every 30 days thereafter. For the purposes of this review the ICT member shall be the warden, assistant warden for operations or programs, a chief of security, or classification supervisor. The purpose of this review shall be toward reducing the inmate's status to the lowest management level or returning the inmate to general population as soon as the facts of the case indicate that this can be done safely, and, if applicable, review the inmate's disciplinary confinement status as outlined in subsection 33-602.222(8), F.A.C. If, upon completion of the ICT member's weekly or 30 day review, an ICT review for modification of the close management team decision, release to general population, or release from disciplinary confinement status is indicated, the ICT member shall notify the classification supervisor. The classification supervisor shall ensure that the case is placed on the docket for ICT review. During the review, the ICT shall consider the results of the behavioral risk assessments and mental health evaluations that have been completed prior to the review, and other information relevant to institutional adjustment, staff and inmate safety, and institutional security.



(b) All services provided by any mental health or program staff member shall be recorded on the Close Management Daily Record of Segregation, Form DC6-229A, which shall be kept in the officers' station of the CM unit. ~~When the form has been completely filled out or the inmate has been released from the CM unit, a copy shall be placed in the inmate file and the original shall be filed in the mental health record.~~

(c) When an inmate has not been released to general population and is in any close management status for six months, the classification officer shall interview the inmate and shall prepare a formal assessment and evaluation on the Report of Close Management. Such reports shall include a brief paragraph detailing the basis for the CM team decision ~~confinement~~, what has transpired during the six-month period, and whether the inmate should be released, maintained at the current level, or modified reduced to another a lower level of management. The case shall be forwarded to the classification supervisor who shall docket the case for ICT review.

(d) The ICT shall review the report of close management prepared by the classification officer, consider the results of behavioral risk assessments and mental health evaluations and other information relevant to institutional adjustment, staff and inmate safety, and institutional security, and insert any other information regarding the inmate's status ~~and interview the inmate. If applicable, the ICT shall review the inmate's disciplinary confinement status in accordance with subsection 33-602.222(8), F.A.C. The inmate shall be present for an interview unless he or she demonstrates disruptive behavior, either before or during the hearing, that impedes the process, or the inmate waives his or her right to be present at the close management hearing, the Close Management Waiver, Form DC6-265, shall be completed. In such cases, the review will be completed without the inmate. The absence, removal or presence of the inmate will be documented on Form DC6-233C. The ICT's CM and, if applicable, Disciplinary confinement status recommendations shall be documented in OBIS and the Report of Close Management, Form DC6-233C. If it is determined that no justifiable safety and security issues exists for the inmate to remain in close management the ICT shall forward their recommendation for release to the SCO for review. For an inmate to remain in close management the ICT shall justify the safety and security issues or circumstances that can only be met by maintaining the inmate at the current level or modifying the inmate to another a lower level of management.~~

(e) The SCO shall conduct an onsite interview with each inmate at least once every six months or as often as necessary to determine if continuation, modification, or removal from close management status is appropriate. The SCO shall review all reports prepared by the ICT concerning an inmate's close management and, if applicable, disciplinary confinement status, consider the results of behavioral risk assessments and mental health evaluations and other information relevant to

institutional adjustment, staff and inmate safety, and institutional security. ~~The SCO shall and may interview the inmate unless exceptional circumstances exist or the inmate is approved for release to general population before determining the final disposition of the inmate's close management status.~~ If it is determined that no justifiable safety and security issues exist for the inmate to remain in close management the SCO shall cause the inmate to be immediately released. For an inmate to remain in close management, the SCO shall determine based on the reports and documentation that there are safety and security issues or circumstances for maintaining the inmate at the current level or at a modified lower level of management. If applicable and in accordance with subsection 33-602.222(8), F.A.C., the SCO shall determine whether the inmate is to continue or be removed from disciplinary confinement status. The SCO's decisions shall be documented in OBIS and the Report of Close Management, Form DC6-233C. ~~The SCO ICT shall advise the inmate of its the SCO's decision.~~

(f) Reviews required by this section shall be completed regardless of the inmate's housing assignment, including when a CM inmate is housed outside the CM unit in order to access medical or mental health care.

(17) Close Management Records.

(a) No change.

(b) A Close Management Daily Record of Segregation, Form DC6-229A, shall be maintained for each inmate as long as he is in close management. Form DC6-229A shall be utilized to document any activities, including cell searches, items removed, showers, outdoor exercise recreation, haircuts and shaves. If items that inmates in close management are not prohibited from possessing are denied or removed from the inmate, the shift supervisor or the senior correctional officer must approve the action initially. The Central Office ADA coordinator shall be contacted within 24 hours if any item is removed that would be considered an auxiliary aid or device that ensures a disabled inmate an equal opportunity as a non-disabled inmate. The items denied or removed shall be documented on Form DC6-229A and the chief of security shall make the final decision in regard to the action no later than the next working day following the action. Staff shall re-assess the need for continued restriction every 72 hours thereafter as outlined in subsection (10) of this rule. The close management unit confinement housing officer shall make a notation of any unusual occurrences or changes in the inmate's behavior and any action taken. Changes in housing location or any other special action shall also be noted. Form DC6-229A shall be maintained in the housing area for 30 days. After each 30 day review of the inmate by a member of the ICT, Form DC6-229A shall be forwarded to the ICT for review. Once reviewed, these forms shall be forwarded to classification to be filed in the institutional inmate record.

(c) A Daily Record of Segregation – Supplemental, Form DC6-229B, shall be completed and attached to the current Form DC6-229A whenever additional written documentation is required concerning an event or incident related to the specific inmate.

(d)(e) An Inspection of Special Housing Record, Form DC6-228, shall be maintained in each close management unit area. Each staff person shall sign the record when entering and leaving the close management unit confinement area. Prior to leaving the close management unit confinement area, each staff member shall indicate any specific problems. No other unit activities will be recorded on Form DC6-228. Upon completion, Form DC6-228 shall be maintained in the housing area and forwarded to the chief of security on a weekly daily basis where it shall be maintained on file pursuant to the current retention schedule.

(e) A Housing Unit Log, Form DC6-209, shall be maintained in each close management unit. Officers shall record all daily unit activities on Form DC6-209, to include any special problems or discrepancies noted. The completed Form DC6-209 shall be forwarded daily to the chief of security for review.

(18) Staffing Issues.

(a) Officers assigned to a close management confinement unit shall be reviewed every 18 months by the chief of security to determine whether a rotation is necessary. The chief of security shall review personnel records, to include performance appraisals, incident reports, uses of force, and any other documentation relevant to the officer’s assignment and job performance; interview the officer and the officer’s supervisors for the period of review; and shall make a recommendation to the warden as to the necessity of a rotation. The warden shall review the recommendation, request additional information, if necessary, and make the final determination as to whether the officer continues in the current assignment or is rotated to another assignment. Any officer assigned to a close management confinement post shall be authorized a minimum period of five days annual leave or a five day assignment to a less stressful post every six months.

(b) No change.

(19) 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, Department of Corrections, 2601 Blair Stone Road, Tallahassee, Florida 32399-2500.

(a) Form DC6-128, Close Management Referral Assessment, effective date \_\_\_\_\_ ~~December 16, 2001.~~

(b) through (e) No change.

(f) Form DC6-229A, Close Management Daily Record of Segregation, effective date \_\_\_\_\_.

(g) Form DC6-229B, Daily Record of Segregation – Supplemental, effective date \_\_\_\_\_.

(h)(f) Form DC6-233C, Report of Close Management, effective date \_\_\_\_\_ ~~December 16, 2001.~~

(i)(e) Form DC6-251, CMI and II Canteen Order, effective date \_\_\_\_\_ ~~December 16, 2001.~~

(j)(h) Form DC6-252, CMIII Canteen Order, effective date \_\_\_\_\_ ~~December 16, 2001.~~

(k)(i) No change.

(l)(f) Form DC4-729, Behavioral Risk Assessment, effective date \_\_\_\_\_ ~~December 16, 2001.~~

(m) Form DC6-209, Housing Unit Log, effective date \_\_\_\_\_.

(n) Form NI1-046, Close Management Housing Unit Instructions, effective date \_\_\_\_\_.

Specific Authority 944.09 FS. Law Implemented 944.09 FS. History–New 2-1-01, Amended 12-16-01, \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE: Michael Rathmann  
NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: James V. Crosby, Jr.  
DATE PROPOSED RULE APPROVED BY AGENCY HEAD: January 26, 2004  
DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: August 29, 2003

**DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION**

**Board of Pilot Commissioners**

RULE TITLE: Probable Cause Determination  
RULE NO.: 61G14-17.002  
PURPOSE AND EFFECT: The proposed rule amendment is intended to address the composition of the probable cause panel.

SUMMARY: The proposed rule amendment clarifies the composition of the Board’s probable cause panel.

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

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

SPECIFIC AUTHORITY: 310.013(3), 455.013(3) FS.

LAW IMPLEMENTED: 455.013(3) FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Anthony Spivey, Executive Director, Board of Pilot Commissioners, 1940 North Monroe Street, Tallahassee, Florida 32399-0750

THE FULL TEXT OF THE PROPOSED RULE IS:

61G14-17.002 Probable Cause Determination.

(1) The determination as to whether probable cause exists to believe that a violation of the provisions of Chapter 445 or 310, Florida Statutes, or the rule promulgated thereunder has occurred shall be made by a probable cause panel of the Board. The panel shall consist of three (3) Board members, not more than one (1) member of the panel shall be a non-pilot Board Member. Former Board members who hold an active valid license may serve on the Probable Cause Panel but at least two (2) current Board members must be members of the Panel at all times.

(2) No change.

Specific Authority 310.013(3), 455.013(3) FS. Law Implemented 455.013(3) FS. History—New 1-28-80, Formerly 21SS-8.06, Amended 9-4-91, Formerly 21SS-8.006, 21SS-17.002, Amended \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE:  
Board of Pilot Commissioners

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

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: January 9, 2004

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: January 16, 2004

**DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION**

**Board of Professional Engineers**

RULE TITLE: Experience  
RULE NO.: 61G15-20.002

PURPOSE AND EFFECT: This rule is being amended to remove obsolete language and to clarify what is required for valid experience as required by subsection 61G15-20.001(2), F.A.C.

SUMMARY: This rule sets forth the experience requirements and documentation necessary to qualify for the examination.

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

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

SPECIFIC AUTHORITY: 471.013(1)(a) FS.

LAW IMPLEMENTED: 471.005(6), 471.013(1)(a) FS.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE SCHEDULED AND ANNOUNCED IN THE FAW (IF NOT REQUESTED, A HEARING WILL NOT BE HELD).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Natalie Lowe, Executive Director, Florida Board of Professional Engineers, 2507 Callaway Road, Suite 200, Tallahassee, Florida 32399-0750

THE FULL TEXT OF THE PROPOSED RULE IS:

61G15-20.002 Experience.

(1)(a) In order to meet the prerequisites for entry into the engineering examination, an applicant is required to have four years of acceptable experience in engineering at the time of application and four years of acceptable educational qualifications. In determining whether an applicant's experience background is sufficient to meet the requirements set forth in subsection 471.013(1)(a)1. and 2., F.S., the Board has determined that an individual must have the requisite number of years of acceptable engineering experience gained through education and through the requisite amount of full-time employment in engineering. The type of employment which shall be acceptable must principally involve activities in the field of engineering as defined in subsection 471.005(4)(a), F.S., ~~and shall include at least one year of engineering design experience.~~ The Board may accept engineering experience in foreign countries if such experience is properly verified by the Board from evidence supplied by the applicant to be equivalent to that accepted as experience by the Board as to any state or territory.

(b) Because the evaluation of experience is a complex and subjective matter, the Board establishes the following guidelines which shall be generally applicable absent extraordinary evidence and documentation supporting a departure therefrom:

1. The acquisition of acceptable engineering experience should logically follow and constitute an application of the engineering education previously obtained.

2. Engineering experience obtained prior to the completion of the engineering degree is usually of a subprofessional nature. Such experience, if deemed acceptable and properly verified, may be awarded experience credit at 25% of the actual time. If the experience is obtained after the completion of a substantial number of engineering design courses, and involves matters of average or above average complexity, experience credit may be awarded at up to 50% of actual time. In any event, the total engineering experience credit allowable for pregraduation experience shall not exceed 12 months.

3. Experience credit is based on a 40 hour per week full-time basis. No additional credit is allowable for overtime work, or for part-time work experience obtained while pursuing engineering education on a full-time basis, or for the part-time pursuit of a masters or doctorate degree while obtaining full-time work experience.

4. Experience must be progressive on engineering projects to indicate that it is of increasing quality and requiring greater responsibility.

5. Experience must not be obtained in violation of the licensure act.

6. Experience gained in the armed services, to be creditable, must be of a character equivalent to that which would have been gained in the civilian sector doing similar work. Normally, it would be expected that the applicant while in the armed services served in an engineering or engineering-related group.

7. Experience should be gained under the supervision of a licensed professional engineer or, if not, an explanation should be made showing why the experience should be considered acceptable.

8. For sales experience to be creditable, it must be demonstrated that engineering principles were required and used in gaining the experience.

9. Teaching experience, to be creditable, must be in engineering or engineering-related courses at an advanced level in a college or university offering an engineering program of four years or more that is approved by the board.

10. Experience gained in engineering research and design projects by members of an engineering faculty where the program is approved by the board is creditable.

11. Experience may not be anticipated. The experience must have been gained by the time of the application.

12. Experience in construction, to be creditable, must demonstrate the application of engineering principles.

13. Experience should include demonstration of a knowledge of engineering mathematics, physical and applied science, properties of materials, and the fundamental principles of engineering design.

14. Experience should include demonstration of the application of engineering principles in the practical solution of engineering problems.

(2) In order to verify an applicant's experience record, the Board will require evidence of employment from employers or supervisors who are employed in the engineering profession or are professional engineers, who shall set forth the quality and character of the applicant's duties and responsibilities. In addition to the employer verification, an applicant must list three personal references who are professional engineers. Should the Board find the information submitted by the applicant is insufficient or incomplete, the Board may require the applicant to supply additional references or evidence regarding the applicant's experience and background or both so that an intelligent decision may be made on whether admittance to the examination is allowable.

The Board will accept as equivalent to one year's experience a masters degree in engineering from a college or university from a Board approved engineering program as defined in subsection 61G15-20.001(2), F.A.C. approved pursuant to

~~Section 471.013, F.S.~~ The Board will also accept as equivalent to one year's experience a doctorate in engineering from a college or university from a Board approved engineering program as defined in subsection 61G15-20.001(2), F.A.C. approved pursuant to Section 471.013, F.S.

Specific Authority 471.013(1)(a) FS. Law Implemented 471.005(6), 471.013(1)(a) FS. History--New 1-8-80, Amended 3-11-80, 6-23-80, 7-7-83, 9-13-84, Formerly 21H-20.01, Amended 8-18-87, 12-4-91, Formerly 21H-20.002, Amended 12-26-94, 5-20-02, \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE:  
Board of Professional Engineers

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

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: August 8, 2003

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: November 14, 2003

**DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION**

**Board of Professional Engineers**

RULE TITLES: RULE NOS.:

Qualification Program for Special Inspectors of Threshold Buildings 61G15-35.003

Common Requirements to All Engineers Providing Threshold Building Inspection 61G15-35.004

Services as Special Inspectors 61G15-35.004

PURPOSE AND EFFECT: The Board proposes to amend this rule to update the language and to remove the subsections (1)(e) relating to self-certification of competency of applicant and (2) relating to automatically qualifying the registered professional engineers who are Certified Special Inspectors listed on the Roster maintained by the Department of Community Affairs. Rule 61G15-35.004, F.A.C., is being amended to change Threshold Building Inspectors to Special Inspectors for clarity and uniformity with other existing rules.

SUMMARY: Rule 61G15-35.003, F.A.C., sets forth the requirements for qualification as a special inspector of threshold buildings, and Rule 61G15-35.004, F.A.C., sets forth the threshold requirement guidelines the inspectors doing the inspecting and for the buildings being inspected.

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

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

SPECIFIC AUTHORITY: 471.008, 471.033(2) FS.

LAW IMPLEMENTED: 471.015(7), 471.033 FS.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE SCHEDULED AND ANNOUNCED IN THE FAW (IF NOT REQUESTED, A HEARING WILL NOT BE HELD).

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

THE FULL TEXT OF THE PROPOSED RULE IS:

61G15-35.003 Qualification Program for Special Inspectors of Threshold Buildings.

(1) The minimum qualifying criteria for Special Inspectors of Threshold Buildings, also referred to as Threshold Inspectors, established by the Board shall be as follows:

(a) Proof of current licensure in good standing as a licensed professional engineer whose principal practice is structural engineering in the State of Florida.

(b) Three years of experience in performing structural field inspections on threshold ~~type~~ buildings.

(c) Two years of experience in the structural design of threshold ~~type~~ buildings. For the purpose of these criteria, structural design shall mean the design of all structural components of the building and shall not be limited to specific structural components only, such as foundations, prestressed or post-tensioned concrete, etc.

(d) Experience in the structural inspection and/or design of at least three threshold ~~type~~ buildings. This experience must be within the ten calendar years preceding submission of the application.

~~(e) Self-certification as to the competency of the applicant to perform structural inspections on threshold buildings.~~

~~(2) All registered professional engineers who are certified Special Inspectors and on the Roster of Special Inspectors maintained by the Department of Community Affairs, pursuant to Rule 9B-3.043, F.A.C., as of June 30, 2000 shall be qualified pursuant to this rule and shall continue to be certified Special Inspectors of threshold buildings.~~

(3) through (5) renumbered (2) through (4) No change.

Specific Authority 471.008, 471.033(2) FS. Law Implemented 471.015(7), 471.033 FS. History--New 4-19-01, Amended 7-7-02, \_\_\_\_\_.

61G15-35.004 Common Requirements to All Engineers Providing Threshold Building Inspection Services as Special Inspectors.

(1) For each Threshold Building, a notice shall be filed for public record, bearing the name, address, signature, date and seal of the Special Inspector, certifying that the Special Inspector is competent to provide the engineering services for the specific type of structure.

(2) ~~Special Threshold Building~~ Inspectors utilizing Authorized Representatives shall insure the Authorized Representative is qualified by education or licensure to

perform the duties assigned by the ~~Special Threshold Building~~ Inspector. The qualifications shall include licensure as a professional engineer or architect; graduation from an engineering education program in civil or structural engineering; graduation from an architectural education program; successful completion of the NCEES Fundamentals Examination; or registration as building inspector or general contractor.

(3) ~~Special Threshold Building~~ Inspectors shall be in responsible charge of the work of the Authorized Representative, including reviewing reports and spot checks.

(4) ~~Special Threshold Building~~ Inspectors shall institute quality assurance procedures to include but not be limited to requiring unscheduled visits, utilization or relevant check lists, use of a Daily Inspection Report and insuring that the ~~Special~~ Inspector or the Authorized Representative is at the project whenever so required by the inspection plan.

Specific Authority 471.008, 471.033(2) FS. Law Implemented 471.015(7), 471.033 FS. History--New 3-21-01, Amended \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE: Board of Professional Engineers

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

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: December 3, 2003

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: December 26, 2003

**DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION**

**State Boxing Commission**

RULE CHAPTER TITLE:	RULE CHAPTER NO.:
General Rules for Kickboxing	61K1-2
RULE TITLES:	RULE NOS.:
Purpose, Applicability and Scope of Rules	61K1-2.001
Definitions	61K1-2.002
Commission, Duties and Responsibilities;	
Deputy Commissioners	61K1-2.0023
Medical Advisory Council, Duties and Responsibilities	61K1-2.0024
Executive Secretary, Duties and Responsibilities	61K1-2.0025
Deputy Commissioners, Duties and Responsibilities	61K1-2.0026
Commission Representatives, Duties and Responsibilities	61K1-2.0027
Inspectors, Duties and Responsibilities	61K1-2.0028
Licenses, Permits; Requirement, Procedure and Period, Fee	61K1-2.003
Insurance	61K1-2.0035
Weight Classes; Weigh-In; Pre-Match Physical of Participant and Referee	61K1-2.004
Drugs and Foreign Substances; Penalties	61K1-2.0043

Promoter and Matchmaker; Licensing and Bond; Duties and Conduct 61K1-2.005

Arena Equipment; Ring Requirements; Floor Plan and Apron Seating; Emergency Medical and Other Equipment and Services 61K1-2.006

Participants' Apparel and Appearance 61K1-2.007

Bandages, Handwraps, Footwraps and Shinpads 61K1-2.008

Gloves, Footpads and Mouthpiece 61K1-2.009

Physician; License and Duties; Authority 61K1-2.010

Manager; License; Contract Between Manager and Participant 61K1-2.011

Participant; License; Conduct and Other Requirements 61K1-2.012

Judge; License and Duties 61K1-2.013

Announcer; License and Duties 61K1-2.016

Timekeeper or Assistant Timekeeper; License and Duties 61K1-2.017

Second; License and Duties 61K1-2.018

Referee; License and Duties 61K1-2.019

Trainer; License and Conduct 61K1-2.023

Booking Agent, Representative of Booking Agent; License 61K1-2.024

Rounds 61K1-2.030

Scoring System for Kickboxing; Scoring, Criteria; Knockdowns, Fouls; Determination of Win or Draw; Decision Final, Exceptions 61K1-2.035

Post-Match Physical Requirements; Suspensions 61K1-2.037

Post-Match Reports Required to be Filed; Penalty for Late Filing 61K1-2.040

Closed Circuit Telecasts; Requirements; Penalty for Late Filing 61K1-2.042

Method of Payment 61K1-2.050

Administrative Complaints; Informal Hearing Officer 61K1-2.070

Forms 61K1-2.080

**PURPOSE AND EFFECT:** The purpose and effect of the proposed rule amendments is to delete separate set of rules for kickboxing and incorporate kickboxing rules within boxing and mixed martial rules, Chapter 61K1-1, F.A.C.

**SUMMARY:** In order to streamline Chapter 548 disciplines of kickboxing, boxing, and mixed martial arts, Chapter 61K1-2, F.A.C., General Rules for Kickboxing, is repealed.

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

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

**SPECIFIC AUTHORITY:** 548.003(2) FS.

**LAW IMPLEMENTED:** 548 FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Jason Penley, Assistant Executive Director, The Florida State Boxing Commission, 725 S. Bronough Street, Room 206, Tallahassee, Florida 32399, (850)488-8500

THE FULL TEXT OF THE PROPOSED RULES IS:

61K1-2.001 Purpose, Applicability and Scope of Rules.

Specific Authority 548.003 FS. Law Implemented 548.004, 548.006, 548.007, 548.061 FS. History--New 11-5-89, Amended 1-1-90, Formerly 7F-2.001, Repealed

61K1-2.002 Definitions.

Specific Authority 548.003 FS. Law Implemented 548.002, 548.006, 548.013, 548.017, 548.021, 548.045, 548.046, 548.057, 548.06, 548.061 FS. History--New 11-5-89, Formerly 7F-2.002, Amended 2-9-95, 11-20-95, Repealed

61K1-2.0023 Commission, Duties and Responsibilities; Deputy Commissioners.

Specific Authority 548.003 FS. Law Implemented 548.003, 548.004, 548.006, 548.011, 548.025, 548.035, 548.054, 548.056, 548.07, 548.071, 548.073 FS. History--New 11-5-89, Formerly 7F-2.0023, Amended 2-9-95, Repealed

61K1-2.0024 Medical Advisory Council, Duties and Responsibilities.

Specific Authority 548.003 FS. Law Implemented 548.046, 548.045 FS. History--New 11-5-89, Formerly 7F-2.0024, Repealed

61K1-2.0025 Executive Secretary, Duties and Responsibilities.

Specific Authority 548.003 FS. Law Implemented 548.004, 548.006, 548.011, 548.056 FS. History--New 11-5-89, Amended 1-1-90, Formerly 7F-2.0025, Amended 2-9-95, Repealed

61K1-2.0026 Deputy Commissioners, Duties and Responsibilities.

Specific Authority 548.003 FS. Law Implemented 548.004, 548.006, 548.056, 548.061, 548.071 FS. History--New 11-5-89, Formerly 7F-2.0026, Amended 2-9-95, Repealed

61K1-2.0027 Commission Representatives, Duties and Responsibilities.

Specific Authority 548.003 FS. Law Implemented 548.006, 548.045, 548.046, 548.057 FS. History--New 11-5-89, Amended 1-1-90, 5-13-90, Formerly 7F-2.0027, Amended 2-9-95, Repealed

61K1-2.0028 Inspectors, Duties and Responsibilities.

Specific Authority 548.003 FS. Law Implemented 548.006, 548.046, 548.058 FS. History--New 11-5-89, Formerly 7F-2.0028, Repealed

61K1-2.003 Licenses, Permits; Requirement, Procedure and Period, Fee.

Specific Authority 548.003 FS. Law Implemented 548.006, 548.011, 548.012, 548.013, 548.014, 548.017, 548.021, 548.025, 548.026, 548.028, 548.032, 548.035, 548.045, 548.046, 548.057, 548.066 FS. History--New 11-5-89, Amended 5-13-90, Formerly 7F-2.003, Amended 2-9-95, Repealed

**61K1-2.0035 Insurance.**

Specific Authority 548.003 FS. Law Implemented 548.006, 548.049, 548.071 FS. History—New 11-5-89, Formerly 7F-2.0035, Repealed.

**61K1-2.004 Weight Classes; Weigh-In; Pre-Match Physical of Participant and Referee.**

Specific Authority 548.003 FS. Law Implemented 548.006, 548.043, 548.045, 548.046, 548.071, 548.075 FS. History—New 11-5-89, Amended 1-1-90, 5-13-90, Formerly 7F-2.004, Amended 2-9-95, Repealed.

**61K1-2.0043 Drugs and Foreign Substances; Penalties.**

Specific Authority 548.003 FS. Law Implemented 548.006, 548.011, 548.028, 548.045, 548.046, 548.047, 548.05, 548.053, 548.054, 548.058, 548.071, 548.075, 548.079 FS. History—New 11-5-89, Formerly 7F-2.0043, Repealed.

**61K1-2.005 Promoter and Matchmaker; Licensing and Bond; Duties and Conduct.**

Specific Authority 548.003 FS. Law Implemented 548.002, 548.006, 548.011, 548.012, 548.013, 548.014, 548.017, 548.028, 548.032, 548.037, 548.046, 548.049, 548.05, 548.052, 548.053, 548.054, 548.056, 548.058, 548.06, 548.061, 548.064, 548.066, 548.071 FS. History—New 11-5-89, Amended 1-1-90, 5-13-90, Formerly 7F-2.005, Amended 2-9-95, Repealed.

**61K1-2.006 Arena Equipment; Ring Requirements; Floor Plan and Apron Seating; Emergency Medical and Other Equipment and Services.**

Specific Authority 548.003 FS. Law Implemented 548.006, 548.032, 548.045, 548.046, 548.057 FS. History—New 11-5-89, Amended 1-1-90, Formerly 7F-2.006, Repealed.

**61K1-2.007 Participants' Apparel and Appearance.**

Specific Authority 548.003 FS. Law Implemented 548.006, 548.043, 548.045, 548.046, 548.071 FS. History—New 11-5-89, Formerly 7F-2.007, Amended 2-9-95, Repealed.

**61K1-2.008 Bandages, Handwraps, Footwraps and Shinpads.**

Specific Authority 548.003 FS. Law Implemented 548.006, 548.043, 548.046 FS. History—New 11-5-89, Formerly 7F-2.008, Repealed.

**61K1-2.009 Gloves, Footpads and Mouthpiece.**

Specific Authority 548.003 FS. Law Implemented 548.006, 548.043, 548.057 FS. History—New 11-5-89, Amended 1-1-90, 5-13-90, Formerly 7F-2.009, Repealed.

**61K1-2.010 Physician; License and Duties; Authority.**

Specific Authority 548.003 FS. Law Implemented 548.006, 548.011, 548.017, 548.021, 548.045, 548.046, 548.047, 548.056 FS. History—New 11-5-89, Amended 5-13-90, Formerly 7F-2.010, Amended 2-9-95, Repealed.

**61K1-2.011 Manager; License; Contract Between Manager and Participant.**

Specific Authority 548.003 FS. Law Implemented 548.006, 548.011, 548.017, 548.05, 548.053, 548.054, 548.056, 548.057, 548.058 FS. History—New 11-5-89, Amended 5-13-90, Formerly 7F-2.011, Amended 2-9-95, Repealed.

**61K1-2.012 Participant; License; Conduct and Other Requirements.**

Specific Authority 548.003 FS. Law Implemented 548.006, 548.011, 548.017, 548.041, 548.045, 548.046, 548.047, 548.056, 548.058, 548.071 FS. History—New 11-5-89, Amended 1-1-90, Formerly 7F-2.012, Amended 2-9-95, Repealed.

**61K1-2.013 Judge; License and Duties.**

Specific Authority 548.003 FS. Law Implemented 548.006, 548.011, 548.017, 548.056, 548.057 FS. History—New 11-5-89, Amended 5-13-90, Formerly 7F-2.013, Amended 2-9-95, Repealed.

**61K1-2.016 Announcer; License and Duties.**

Specific Authority 548.003 FS. Law Implemented 548.006, 548.011, 548.017, 548.057 FS. History—New 11-5-89, Formerly 7F-2.016, Amended 2-9-95, Repealed.

**61K1-2.017 Timekeeper or Assistant Timekeeper; License and Duties.**

Specific Authority 548.003 FS. Law Implemented 548.006, 548.011, 548.017, 548.057 FS. History—New 11-5-89, Formerly 7F-2.017, Amended 2-9-95, Repealed.

**61K1-2.018 Second; License and Duties.**

Specific Authority 548.003 FS. Law Implemented 548.006, 548.011, 548.017, 548.046, 548.056, 548.057 FS. History—New 11-5-89, Formerly 7F-2.018, Amended 2-9-95, Repealed.

**61K1-2.019 Referee; License and Duties.**

Specific Authority 548.003 FS. Law Implemented 548.006, 548.011, 548.017, 548.056, 548.057, 548.058 FS. History—New 11-5-89, Formerly 7F-2.019, Amended 2-9-95, Repealed.

**61K1-2.023 Trainer; License and Conduct.**

Specific Authority 548.003 FS. Law Implemented 548.006, 548.011, 548.017, 548.056 FS. History—New 11-5-89, Formerly 7F-2.023, Amended 2-9-95, Repealed.

**61K1-2.024 Booking Agent, Representative of Booking Agent; License.**

Specific Authority 548.003 FS. Law Implemented 548.006, 548.011, 548.056 FS. History—New 11-5-89, Formerly 7F-2.024, Amended 2-9-95, Repealed.

**61K1-2.030 Rounds.**

Specific Authority 548.003 FS. Law Implemented 548.006, 548.057 FS. History—New 11-5-89, Formerly 7F-2.030, Repealed.

**61K1-2.035 Scoring System for Kickboxing; Scoring, Criteria; Knockdowns, Fouls.**

Specific Authority 548.003 FS. Law Implemented 548.006, 548.011, 548.054, 548.057, 548.058, 548.071 FS. History—New 11-5-89, Formerly 7F-2.035, Amended 2-9-95, Repealed.

**61K1-2.037 Post-Match Physical Requirements; Suspensions.**

Specific Authority 548.003 FS. Law Implemented 548.006, 548.045, 548.046, 548.071 FS. History—New 11-5-89, Formerly 7F-2.037, Amended 2-9-95, Repealed.

61K1-2.040 Post-Match Reports Required to be Filed; Penalty for Late Filing.

Specific Authority 548.003 FS. Law Implemented 548.053, 548.06, 548.075 FS. History–New 11-5-89, Amended 5-13-90, Formerly 7F-2.040, Amended 2-9-95, Repealed.

61K1-2.042 Closed Circuit Telecasts; Requirements; Penalty for Late Filing.

Specific Authority 548.003 FS. Law Implemented 548.06, 548.061 FS. History–New 11-5-89, Amended 5-13-90, Formerly 7F-2.042, Amended 2-9-95, Repealed.

61K1-2.050 Method of Payment.

Specific Authority 548.003 FS. Law Implemented 548.006 FS. History–New 11-5-89, Formerly 7F-2.050, Amended 2-9-95, Repealed.

61K1-2.070 Administrative Complaints; Informal Hearing Officer.

Specific Authority 548.003 FS. Law Implemented 548.004, 548.006, 548.073 FS. History–New 11-5-89, Formerly 7F-2.070, Amended 2-9-95, Repealed.

61K1-2.080 Forms.

Specific Authority 548.003 FS. Law Implemented 548.006, 548.011, 548.05 FS. History–New 11-5-89, Amended 5-13-90, Formerly 7F-2.080, Repealed.

NAME OF PERSON ORIGINATING PROPOSED RULE: Susan E. Wilkinson, Assistant General Counsel, Office of the General Counsel

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: J. Christian Meffert, Executive Director, Florida State Boxing Commission

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: January 27, 2004

DEPARTMENT OF ENVIRONMENTAL PROTECTION

Pursuant to Chapter 2003-145, Laws of Florida, all notices for the Department of Environmental Protection are published on the Internet at the Department of Environmental Protection’s home page at <http://www.dep.state.fl.us/> under the link or button titled “Official Notices.”

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

Economic Self-Sufficiency Program

RULE TITLE: Medicare Buy-In Demonstration Project RULE NO.: 65A-1.720

PURPOSE AND EFFECT: The purpose of this notice is to inform citizens that the department intends to repeal the above-referenced rule that established the Medicare Buy-In Demonstration Project that ended December 31, 1999. The effect of this rule repeal is to remove the rule from the Florida Administrative Code.

SUMMARY: The Medicare Buy-In Demonstration Project ended December 31, 1999. Rule 65A-1.720, F.A.C., is no longer required.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: None.

A statement of estimated regulatory cost was not prepared for this rule repeal. Any person who wishes to provide information regarding the statement of estimated regulatory costs, or to provide a proposal for a lower cost regulatory alternative must do so in writing within 21 days of this notice.

SPECIFIC AUTHORITY: 409.919 FS.

LAW IMPLEMENTED: 409.903, 409.904 FS.

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

TIME AND DATE: 9:00 a.m. – 10:00 a.m., April 5, 2004

PLACE: 1317 Winewood Boulevard, Building 3, Room 439, Tallahassee, Florida 32399-0700

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Nathan Lewis, Program Administrator, 1317 Winewood Boulevard, Building 3, Room 448, Tallahassee, Florida 32399-0700, (850)414-5927

THE FULL TEXT OF THE PROPOSED RULE IS:

65A-1.720 Medicare Buy-In Demonstration Project.

Specific Authority 409.919 FS. Law Implemented 409.903, 409.904 FS. History–New 11-11-99, Repealed.

NAME OF PERSON ORIGINATING PROPOSED RULE: Robi Olmstead, Government Operations Consultant II

NAME OF SUPERVISOR OR PERSON WHO APPROVED PROPOSED RULE: Nathan Lewis, Program Administrator, Public Assistance Policy Bureau

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: January 26, 2004

DEPARTMENT OF FINANCIAL SERVICES

Division of Insurance Agents and Agency Services

RULE TITLE: Effect of Law Enforcement Records on Applications for Licensure RULE NO.: 69B-211.042

PURPOSE AND EFFECT: The purpose and effect is to amend paragraph 69B-211.042(21)(aa), F.A.C., to insert the words “with intent to defraud” after “passing worthless check(s)” in the list of class A crimes. This is to explicitly conform the rule to case law construing the meaning of “moral turpitude” in the context of writing a bad check; e.g., *The Florida Bar v. Davis*, 361 So2d 159. Also subsection 68B-211.042(22), F.A.C., is being amended to add “(i) Passing worthless check without intent to defraud.” This is to avoid leaving out such crimes as a result of narrowing the classification in (21)(aa).



**SUMMARY:** This amendment adds fraudulent intent to "passing worthless check(s)" in the list of crimes involving moral turpitude for the purpose of insurance representative licensure application evaluation. The amendment also lists passing worthless check without intent to defraud as a crime without "moral turpitude."

**SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS:** No significant economic impact is expected.

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

**SPECIFIC AUTHORITY:** 624.308 FS.

**LAW IMPLEMENTED:** 112.011, 624.307(1), 626.161, 626.171, 626.201, 626.207, 626.211, 626.291, 626.601, 626.611(7), (14), 626.621(8), 626.631, 626.641 FS.

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

**TIME AND DATE:** 9:30 a.m., Wednesday, March 10, 2004

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

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Audrey Huggins, Chief, Bureau of Agent and Agency Licensing, Division of Agent and Agency Services, Department of Insurance, 200 East Gaines Street, Tallahassee, Florida 32399-0319, (850)413-5405

THE FULL TEXT OF THE PROPOSED RULE IS:

69B-211.042 Effect of Law Enforcement Records on Applications for Licensure.

(1) through (20) No change.

(21) Class "A" Crimes include all those listed in this subsection, where such crimes are felonies, and all are of equal weight notwithstanding from which subparagraph they are drawn. The Department finds that each felony crime listed in this subsection is a crime of moral turpitude.

(a) through (z) No change.

(aa) Passing worthless check(s) with intent to defraud.

(bb) through (III) No change.

(22) through (24) No change.

Specific Authority 624.308 FS. Law Implemented 112.011, 624.307(1), 626.161, 626.171, 626.201, 626.207, 626.211, 626.291, 626.601, 626.611(7),(14), 626.621(8), 626.631, 626.641 FS. History--New 10-17-02, Amended \_\_\_\_\_.

**NAME OF PERSON ORIGINATING PROPOSED RULE:** Mary Alice Palmer, Director of Agent and Agency Services, Department of Insurance

**NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE:** Audrey Huggins, Bureau Chief of Agent and Agency Licensing, Department of Insurance

**DATE PROPOSED RULE APPROVED BY AGENCY HEAD:** October 2, 2002

**DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW:** October 4, 2002

## DEPARTMENT OF FINANCIAL SERVICES

### Division of Workers' Compensation

**RULE TITLE:** Subcontractors Requirement Regarding

**RULE NO.:**

Proof of Coverage 69L-6.024

**PURPOSE AND EFFECT:** To provide consistency between Sections 440.05(14) and 440.10(1)(c), Florida Statutes. The effect will be that where a subcontractor is a corporation and has an officer or officers who elect to be exempt and has no employees who may recover benefits under Chapter 440, Florida Statutes, the subcontractor shall provide a copy of the certificate of exemption for the exempt officer or officers to the contractor, and is not required to provide the contractor with evidence of workers' compensation insurance.

**SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS:** None.

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

**SPECIFIC AUTHORITY:** 440.05(9), 440.591 FS.

**LAW IMPLEMENTED:** 440.02(15), 440.05(14), 440.10(1)(c) FS.

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

**TIME AND DATE:** 1:00 p.m., March 9, 2004

**PLACE:** 104J Hartman Building, 2012 Capital Circle, Southeast, Tallahassee, Florida

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Bruce Brown, Bureau Chief, Bureau of Compliance, Division of Workers' Compensation, Department of Financial Services, 200 East Gaines Street, Tallahassee, Florida 32399-4228, (850)488-2333

THE FULL TEXT OF THE PROPOSED RULE IS:

69L-6.024 Subcontractors Requirement Regarding Proof of Coverage.

(1) Under Section 440.05(14), Florida Statutes, an officer of a corporation who elects to be exempt from Chapter 440, Florida Statutes, may not recover benefits or compensation under Chapter 440, Florida Statutes, and a carrier may not consider any officer of a corporation who holds a valid certificate of election to be exempt for purposes of determining the appropriate premium for workers' compensation coverage. In order to be consistent with the provisions of Section 440.05(14), Florida Statutes, in instances where a subcontractor is a corporation and has an officer or officers who elect to be exempt, and the subcontractor provides a copy of the officer's or officers' certificate of election to be exempt to a contractor pursuant to Section 440.10(1)(c), Florida Statutes, the subcontractor is not required to also provide evidence of workers' compensation insurance to the contractor if the subcontractor has no employees who may recover benefits under Chapter 440, Florida Statutes, at any time during the life of the contract or project for which evidence of exemption or coverage is required. If a subcontractor hires one or more employees at any time during the life of a contract, that subcontractor must provide the contractor with evidence of workers' compensation insurance before any such employee or employees can perform any work related to that contract.

Specific Authority 440.05(9), 440.591 FS. Law Implemented 440.02(15), 440.05(14), 440.10(1)(c) FS. History--New 1-1-04, Amended \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE: Bruce Brown, Bureau Chief, Bureau of Compliance, Division of Workers' Compensation, Department of Financial Services  
NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Dan Sumner, Deputy Division Director, Division of Workers' Compensation, Department of Financial Services

DATE PROPOSED RULE APPROVED BY THE AGENCY HEAD: December 11, 2003

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: October 3, 2003

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

#### DEPARTMENT OF STATE

##### Division of Elections

RULE NO.:  
1S-2.031

RULE TITLE:  
Recount Procedures

#### SECOND NOTICE OF CHANGE

Notice is hereby given that proposed Rule 1S-2.031 published in the FAW, Page 4903, Vol. 29, No. 45, on December 12, 2003, has been further changed to reflect comments received from the public and from the Joint Administrative Procedures Committee.

Changes were made to Rule 1S-2.031, F.A.C., so that it now reads:

1S-2.031 Recount Procedures.

(1) All procedures relating to machine and manual recounts shall be open to the public.

(2) At least two members of the canvassing board shall be present during all times a machine or manual recount is being conducted.

(3) All recounts are to be ordered by the board responsible for certifying the results of the race or races being recounted.

(4) As used in this rule, "undervote" means that the tabulator recorded no vote for the office or question or that the elector did not designate the number of choices allowed for the race.

(5) Machine Recounts shall be conducted as follows:

(a) The canvassing board responsible for ordering the machine recount shall be responsible for notifying the candidates or committees in the affected race or races that a machine recount will be conducted. In addition, notice of the machine recount shall be posted on the door of the public entrance to the building where the supervisor of elections office is housed so that the notice is accessible to the public 24 hours a day.

(b) Optical Scan Ballot Machine Recounts.

1. The tabulating equipment being used in the recount must be tested pursuant to the provisions of s. 101.5612, F.S. The canvassing board may, but is not required to, use the same tabulating equipment that ballots were originally tabulated on. If the test shows no error, the results of the machine recount shall be deemed correct. If the test indicates an error, the canvassing board shall correct the error and repeat the machine recount.

2. Procedure when only one race is being recounted or where more than one race is being recounted and the voting system will allow for the sorting of overvotes and undervotes in more than one race at the same time:

a. The supervisor of elections shall change the election parameters so that the recounted race or races will be tabulated and so that ballots containing overvotes and undervotes in the recounted race or races can be sorted from the other ballots during the machine recount.

b. The canvassing board or its representatives shall put each ballot through the tabulating equipment and determine the votes in the recounted race or races. During this process, the overvoted and undervoted ballots in the recounted race or races must be sorted.

c. Sorted ballots shall be placed in a sealed container or containers until it is determined whether a manual recount will be conducted. Seal numbers shall be recorded at the time the ballots are placed in the containers.

3. Procedure when more than one race is being recounted by machine and the voting system does not allow the sorting of overvotes and undervotes on more than one race at a time:

a. The canvassing board or its representatives shall put each ballot through the tabulating equipment and determine the votes in the affected races.

b. The canvassing board shall produce vote counts for those races involved in the machine recount.

c. Prior to a manual recount being conducted, the supervisor of elections shall change the election parameters and the ballots for the manually recounted race or races shall be put back through the tabulating equipment and overvotes and undervotes for each race shall be sorted separately.

(c) Touchscreen Ballot Machine Recounts

1. The county canvassing board shall be required to produce printed vote totals for the affected race or races for each precinct.

2. The county canvassing board shall verify that the total votes for the recounted race or races taken from the printed vote totals for each precinct are the same as the total votes shown on the county totals from election night. If there is a discrepancy, the county canvassing board shall investigate and resolve the discrepancy.

(6)(4) The following procedures apply to manual recounts of optical scan ballots involving all county, multicounty, federal or statewide offices or issues required by law to be recounted:

(a) All procedures related to the manual recount shall be open to the public.

(b) At least two members of the county canvassing board shall be present during all times the recount is in process.

(c) The county canvassing board shall supervise the procedure used to identify and sort overvotes and undervotes in the affected race or issue. If the manual recount is being conducted at a location different from the location of the sorting process or is not being started immediately after the sorting, the sorted ballots shall be placed in a sealed container or containers until the manual recount is started. Seal numbers shall be recorded and announced at the time they are placed on the containers and the seal number shall be announced when the seal is broken and the ballots are removed from the container for the recount.

(a)(d) Ballots with overvotes and undervotes shall be transported to the location of the manual recount by two members of the county canvassing board and a sworn law enforcement officer. From the time the manual recount is started until completion of the recount, including times of recess, the ballots shall be guarded by a sworn law enforcement officer.

(b)(e) If the manual recount is ordered by the Elections Canvassing Commission, the Commission shall notify the candidates and chairmen of the state executive committee of the political parties, if applicable, entitled to representatives or the chairmen of the political committees, if any, in the case of a ballot an issue, that a manual recount has been ordered. The candidates or chairmen are responsible for contacting the supervisor of elections in each county involved in the manual recount to find out when and where the recount will be conducted and the number of representatives such candidate or committee is entitled to have present during the manual recount process.

(c)(f) If the manual recount is ordered by the county canvassing board, the supervisor of elections shall notify the candidates and chairmen of the county executive committee of the political parties, if applicable, entitled to representatives or the chairmen of the political committees, if any, in the case of an a ballot issue, that a recount has been ordered and shall provide information regarding the time and the place of the manual recount and the number of representatives such candidate or committee is entitled to have present during the manual recount process.

(d)(g) In addition, each county canvassing board shall provide public notice of the time and place of the manual recount immediately after determining the need for a manual recount pursuant to Section 102.166, F.S. The notice shall be in either a newspaper of general circulation in the county or posted in at least four conspicuous locations in the county. Because of the time constraints in conducting the manual recount, the canvassing board shall also contact media outlets in the community so that the public is made aware of the

recount as soon as possible. The manual recount shall begin as soon as practicable in order for the recount to be concluded in time for the certification of results to be submitted pursuant to Section 102.112, F.S.

(e)(~~h~~) The manual recount shall be conducted in a room large enough to accommodate the necessary number of counting teams, the canvassing board members and representatives of each candidate, political party or political committee entitled to have representatives. Members of the public and the press (observers) shall be allowed to observe the recount from a separate area designated by the county canvassing board, which area may be outside of the actual recount area but which will allow the observers to view the activities. In addition to the sworn law enforcement officer guarding the ballots, there shall be a sworn law enforcement officer to keep order in and around the recount area.

(f)(~~i~~) The canvassing board shall determine the number of overvotes and undervotes to be manually recounted. If the recount involves candidates or issues on a statewide or multicounty basis, each county canvassing board shall notify the Elections Canvassing Commission of the number of overvotes and undervotes in the county for the affected race. Any candidate whose ultimate success or failure in the race could be adversely or favorably impacted by the manual recount, presuming recount results most favorable and least favorable to the candidate, shall be entitled to representatives at the recount as provided in (g). In addition, in any primary where more than one candidate may proceed to a subsequent primary or general election, the candidates receiving the highest and second highest number of votes shall be entitled to representatives as provided in (g) at the recount if the recount could result in those candidates switching positions in the official returns. In a first primary election, any candidate who could move into first or second place if all of the overvotes and undervotes were allocated to such candidate and any candidate who could lose his or her position in first or second place if all of the overvotes and undervotes were allocated to another candidate shall be entitled to representatives at the recount. In a second primary or general election or if there is only one primary, any candidate who could move into first place if all of the overvotes and undervotes were allocated to such candidate and any candidate who could lose his or her position in first place if all of the overvotes and undervotes were allocated to another candidate shall be entitled to representatives at the recount.

(g)(~~j~~) Each candidate entitled to representatives as outlined in (f) (~~i~~) is entitled to a number of representatives equal to the number of counting teams plus an additional representative for the county canvassing board. If the race being recounted is a partisan race, each political party with candidates entitled to representatives is entitled to one representative. Each candidate or political party entitled to representatives must provide a list of the names of each representative designated.

(h)(~~k~~) In order to be entitled to representatives at the manual recount, a political committee supporting or opposing a ballot an issue which is being recounted must have provided in its statement of organization, on file before the election, that the committee is specifically supporting or opposing the issue in question. If more than one committee is registered as supporting or opposing the issue, each side shall be entitled to one representative per counting team plus one for the canvassing board, regardless of the number of committees supporting or opposing the ballot issue. The canvassing board shall notify each committee chairman of the number of representatives it is entitled to have present at the recount, which shall be determined by taking the total number of representatives allowed and dividing it by the number of registered committees on that side of the issue based on the number of committees involved. The committee chairman must provide a list of the names of each representative designated.

(i)(~~l~~) In the case of a manual recount regarding the retention of a judicial candidate, the judicial candidate is entitled to representatives equal to the number of counting teams plus an additional representative for the county canvassing board. If there are political committees organized to oppose the retention of such judicial candidate, those committees are entitled to representatives pursuant to (h)(~~k~~).

(j)(~~m~~) Representatives and observers must not interfere with or disturb the recount in any way. If the conduct of the representatives or observers impedes the recount process, the recount will stop until the situation is corrected. If the disturbance continues, upon majority vote of the canvassing board, the persons causing the disturbance shall be removed from the premises by the law enforcement officer charged with maintaining order at the recount.

(k)(~~n~~) Prior to the beginning of the manual recount, the canvassing board shall review the rules and statutes governing recount procedures and voter intent with the members of the counting teams and with the representatives entitled to be present. At the beginning of the manual recount, the seal numbers on the containers shall be announced as they are broken and compared to the numbers previously recorded.

(l)(~~o~~) Each counting team shall review the ballots before them to determine if there is or is not a clear indication that the voter has made a definite choice, as specified in Rule 1S-2.027, F.A.C. If the counting team is unable to make the determination, or if there is an objection to the decision of the counting team by a designated representative, the ballot shall be set aside for the county canvassing board's determination.

(m)(~~p~~) Each counting team shall place the ballots in stacks indicating:

1. Votes for each candidate or issue choice;
2. Ballots which the counting team has determined there is no clear indication that the voter made a definite choice for an office or ballot question; and

3. Ballots to be set aside for the canvassing board's determination.

~~(n)~~(+) The counting team shall count and record the number of votes for each candidate or issue choice, the number of ballots which the counting team has determined there is no clear indication that the voter made a definite choice, and the number of ballots which are to be given to the canvassing board for its determination and shall submit those totals to the county canvassing board.

~~(o)~~(+) Each ballot set aside because the counting team was unable to make a determination that there is a clear indication that the voter has made a definite choice must be placed in a separate envelope with a notation of the precinct number, why the team was unable to make the determination, and the names of the members of the counting team. If a ballot was set aside because of an objection to the decision of the counting team by a representative, the envelope must contain the precinct number, the names of the members of the counting team, the counting team's initial determination, the reasoning behind the challenge and the name and representative capacity of the person bringing the challenge.

~~(p)~~(+) The county canvassing board shall review each ballot set aside to determine if there is or is not a clear indication that the voter has made a definite choice, as specified in Rule 1S-2.027, F.A.C. All three members of the county canvassing board must be present for this determination and the determination must be by majority vote.

~~(q)~~(+) The records of the manual recount shall detail the number of votes each candidate or issue choice received and the number of ballots not allocated to any candidate or issue choice. The canvassing board shall then certify the number of votes for each candidate or issue choice by combining the totals on the machine during the sorting process with the totals of the manual recount.

~~(r)~~(+) The activities of the canvassing board in making determinations of ballots to be counted shall be recorded by either audio or audio/video tape. In addition, minutes of the manual recount shall be made and approved by the canvassing board. All tapes and minutes shall be made available to the public within 2 weeks of the time the canvassing board certifies the results of the election.

~~(s)~~ If ballots were sorted for more than one race during the machine recount, the following additional procedures shall be used:

1. The election parameters shall be changed so that only overvoted and undervoted ballots for one recounted race will be sorted.

2. All ballots previously sorted pursuant to subsection (5)(b)2. shall be put back through the tabulating equipment to sort the ballots for the first manually recounted race.

3. If there is another race to be manually recounted, following the first manual recount, the sorted ballots from the first manually recounted race will be combined with the other sorted ballots.

4. The election parameters shall be changed to sort the overvoted and undervoted ballots for the next manually recounted race.

5. All previously sorted ballots shall be put back through the tabulating equipment to sort the ballots for the next manually recounted race.

6. The canvassing board shall make an identifying mark or notation on each sorted ballot, in an area that does not interfere with the counting of the ballot, to indicate that the ballot was a manually recounted ballot for a particular race.

(t) If ballots were not sorted during the machine recount, the following procedures shall be used:

1. The election parameters shall be changed so that overvotes and undervotes in the first manually recounted race are identified and sorted for manual review.

2. Following the manual recount, if there is another race to be recounted, the sorted ballots from the first manual recount must be placed back in with the other ballots. The election parameters shall be changed to identify and sort ballots for the next manually recounted race.

3. The canvassing board shall make an identifying mark or notation on each sorted ballot, in an area that does not interfere with the counting of the ballot, to indicate that the ballot was a manually recounted ballot for a particular race.

(7) When a manual recount is ordered and touchscreen ballots are used, no manual recount of undervotes and overvotes cast on a touchscreen system shall be conducted since these machines do not allow a voter to cast an overvote and since a review of undervotes cannot result in a determination of voter intent as required by Section 102.166(5), F.S. In this case, the results of the machine recount conducted pursuant to (5)(c) shall be the official totals for the touchscreen ballots.

~~(8)~~(2) Following a manual recount, the county canvassing board shall examine the ballots that were not allocated to any candidate or issue choice to determine if revisions to the voter intent rule are necessary and shall so notify the Division of Elections.

Specific Authority 102.166 FS. Law Implemented 102.166 FS. History—New 5-30-02, Amended \_\_\_\_\_.

DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES

Division of Plant Industry

RULE CHAPTER NO.:	RULE CHAPTER TITLE:
5B-57	Introduction or Release of Plant Pests, Noxious Weeds, Invasive Plants, Arthropods, and Biological Control Agents
RULE NOS.:	RULE TITLES:
5B-57.001	Definitions
5B-57.004	Introduction, Possession or Movement of Arthropods, Biological Control Agents, Plant Pests, <del>or</del> Noxious Weeds, and Invasive Plants Regulated by the Department
5B-57.010	Noxious Weed and Invasive Plant Classification Procedures

NOTICE OF CHANGE

Notice is hereby given that the following changes have been made to the proposed rule in accordance with subparagraph 120.54(3)(d)1., F.S., published in Vol. 29, No. 52, December 26, 2003, issue of the Florida Administrative Weekly.

THE FULL TEXT OF THE RULE CHANGE IS:

5B-57.001 Definitions.

For the purpose of this rule chapter, the following definitions shall apply:

- (1) Arthropod. Any segmented invertebrate animal having jointed appendages and an exoskeleton, including insects, spiders, ticks, mites, and scorpions, but excluding crustaceans for the purpose of this rule chapter.
- (2) Beneficial Organisms. Any organism which benefits Florida's native or agricultural plants, or benefits one without adversely impacting the other, by improving plant health or growth, or which may adversely affect pest species such as arthropods, fungi, bacteria, viruses, and nematodes.
- (3) Biological control agent. Any biological agent such as bacteria, fungi, viruses, arthropods, parasitoids, parasites, nematodes, and predators that adversely affects pest species.
- (4) Compliance agreement. A written agreement between the department and any person engaged in growing, handling, or moving articles, plants, plant products, plant pests, noxious weeds, invasive plants, arthropods, or biological control agents regulated under this rule chapter, wherein the person agrees to comply with stipulated requirements.
- (5) Department. The Florida Department of Agriculture and Consumer Services.
- (6) International movement. Movement into Florida from any country or area outside the United States.
- (7) Interstate movement. Movement into Florida from another state or U. S. possession.

(8) Intrastate movement. Movement within the state of Florida.

(9) Invasive Plant. A naturalized plant that disrupts naturally occurring native plant communities by altering structure, composition, natural processes or habitat quality. All plants listed in s.369.251, (1) F.S. shall be included in the department's Noxious Weed and Invasive Plant List.

(10) Naturalized Plant. A plant that is reproducing ~~es~~ spontaneously outside of cultivation and outside its native range.

(11) Nematode. A small unsegmented worm in all of its life stages in the Phylum Nematoda.

(12) Noxious weed. Any living stage, including, but not limited to, seeds and reproductive parts, of a parasitic or other plant of a kind, or subdivision of a kind, which may be a serious agricultural threat in Florida, or have a negative impact on the plant species protected under s. 581.185, F.S., or if the plant is a naturalized plant that disrupts naturally occurring native plant communities. All plants listed in s. 369.251(1), F.S. shall be included in the department's Noxious Weed and Invasive Plant List.

(13) Noxious Weed and Invasive Plant Review Committee. A committee appointed by the department, in accordance with s. 570.0705, F.S., to review the Noxious Weed and Invasive Plant List in subsection 5B-57.010(2), F.A.C., as provided for in s. 581.091(4), F.S.

(14) Permit. An official document issued by the department or the USDA allowing under specific conditions the entry or field release of plant pests, noxious weeds, invasive plants, arthropods, and biological control agents, defining the conditions under which such activities will be allowed, and containing specific instructions for inspection, movement, and containment.

(15) Plant pest. Any living stage of any insects, mites, nematodes, slugs, snails, protozoa, or other invertebrate animals, bacteria, fungi, other parasitic plants or reproductive parts thereof, or viruses, or any organisms similar to or allied with any of the foregoing, or any infectious substances which can directly or indirectly injure or cause disease or damage in any plants, plant parts, or other products of plants other than permitted biological control agents.

(16) USDA. The United States Department of Agriculture.

Specific Authority 570.07(4)(3);(23) FS. Law Implemented 581.031(4),(5),(6), 581.083, 581.091 FS. History--New 7-27-93, Amended \_\_\_\_\_.

5B-57.004 Introduction, Possession or Movement of Arthropods, Biological Control Agents, Plant Pests, ~~or~~ Noxious Weeds, and Invasive Plants Regulated by the Department.

(1) It is unlawful to introduce, possess, multiply, move, or release any arthropod, plant pest, biological control agent, ~~or~~ noxious weed, or invasive plant regulated by the department or the USDA except under permit issued by the department unless

a federal permit, PPQ 526, has been issued by the USDA with concurrence that has been approved by the Department. No permit shall be issued nor concurrence with a federal permit, PPQ 526, made unless the department has determined that the arthropod, plant pest, biological control agent, ~~or~~ noxious weed, or invasive plant can be contained to prevent escape into the environment or that it will not pose a threat to agriculture, beneficial organisms, or the environment or become a public nuisance. If the possession of a plant listed in Rule 5B-57.007, F.A.C., has resulted from natural dispersion and there is neither danger of nor intent to further disperse the plant, then no permit is required. In the case of biological control agents, they must be specialized to the target pest or pests. The Department's evaluation of permit applications may rely on findings of the Department of Environmental Protection, the Florida Fish and Wildlife Conservation Commission, the USDA, the University of Florida, or any other State or Federal agency with expertise in these areas. In cases where there is inadequate information about the potential environmental impact of importing or releasing an organism, the department will require the applicant to provide evidence that the accidental escape of organisms not intended for release would not be hazardous to Florida or U.S. agriculture, beneficial organisms, the public, or the environment and to provide contingency plans for containment should escape occur.

The application procedures for permits are as follows:

(2) Application for permit shall be made on form DACS-08208 unless a USDA permit 526 has been issued. Application and Permit to Move Organisms Regulated by The State of Florida, DACS-08208, Revised 10/03 04/00, is incorporated into this rule chapter by reference. A department Pathogen Information Form is also required for plant pathogens. Pathogen Information Form DACS-08214, revised 12/03 01/00 is incorporated into this rule chapter by reference. Copies of all Division of Plant Industry forms may be obtained from the Division of Plant Industry, P. O. Box 147100, Gainesville, Florida 32614-7100, or at the Division of Plant Industry website:<http://www.doacs.state.fl.us/onestop/>.

(3) The completed application for permit shall be submitted to the department for evaluation. The approval or disapproval of the application for permit shall be in accordance with the procedures outlined in Rule Chapter 28-107, F.A.C. and approval or disapproval. ~~The application review process for approval or disapproval shall be completed within 30 days provided all required information has been submitted to the department.~~

(4) Following approval by the department, a permit (DACS-08208) shall be issued. The conditions under which movement, introduction, possession, or release is permitted, and the length of time for which the permit is valid, will be specified on the permit or in a compliance agreement (DACS-08031). Compliance Agreement DACS-08031, revised 5/99 is incorporated into this rule chapter by reference.

Copies of all Division of Plant Industry forms may be obtained from the Division of Plant Industry, P. O. Box 147100, Gainesville, Florida 32614-7100, or at the Division of Plant Industry website: <http://www.doacs.state.fl.us/onestop/>.

(5) Any permit which has been issued shall be revoked by the Director of the Division of Plant Industry in accordance with the procedures outlined in Rule Chapter 28-106, F.A.C. if it is determined that the holder thereof has not complied with any condition for the use of the permit. ~~The reasons for the revocation shall be confirmed in writing as promptly as circumstances allow. Any person whose permit has been revoked may appeal the decision in writing to the director within 30 days after receiving the written notification of the revocation. The appeal shall state all the facts and reasons upon which the person relies to show that the permit was wrongfully withdrawn. The director shall grant or deny the appeal in writing, stating the reasons for the decision as promptly as circumstances allow. If there is a conflict as to any material fact, a hearing shall be held to resolve such conflict in accordance with the procedures outlined in Chapter 120 F.S.~~ Where the Director has withdrawn a permit for non-compliance with these specifications, the permitted organism involved shall be seized by the department if it is determined to pose a threat to the agricultural, horticultural, environmental, or public interests of the state as provided for in s. 581.031(15)(a), F.S.

Specific Authority 570.07(13);(23) FS. Law Implemented 581.031(6),(7), 581.083, 581.091, 581.101 FS. History--New 7-27-93, Amended 6-20-00,

#### 5B-57.010 Noxious Weed and Invasive Plant Classification Procedures.

(1) The Department will propose the classification of a plant as a noxious weed or invasive plant and its inclusion on the Noxious Weed and Invasive Plant List, Rule 5B-57.007, F.A.C., if the plant is determined to be a serious agricultural threat in Florida, or have a negative impact on the plant species protected under Section 581.185 F.S., or if the plant is a naturalized plant that disrupts naturally occurring native communities. In making these determinations, the department will utilize ~~consider~~ information provided by the Institute of Food and Agricultural Sciences at the University of Florida or other experts that biologically justify the classification of a plant as a noxious weed or invasive plant based upon the best and currently available information. Individuals or groups seeking to have plants included in Rule 5B-57.007, F.A.C., may make application to the department on form DACS-08215. Application for Inclusion to the Noxious Weed List Form DACS-08215, Effective 12/03 is incorporated into this rule chapter by reference. Copies of all Division of Plant Industry forms may be obtained by writing the Division of Plant Industry, P. O. Box 147100, Gainesville, Florida 32614-7100, or at the Division of Plant Industry website: <http://www.doacs.state.fl.us/onestop/>. To add a plant or

invasive plant to the list of noxious weeds and invasive plants the following information is required to assist in the development of the risk assessment: identification including scientific name and author, common synonyms, botanical classification, common names; summary of life history; native and world distribution; distribution in Florida or the United States if any; description of control efforts, if established in Florida or the United States; identification of regulation at the state level; consequences of introduction/spread; habitat suitability in Florida (predicted ecological range); dispersal potential (biological characteristics associated with invasiveness); potential economic impacts; potential environmental impacts; likelihood of introduction/spread; potential pathways into and within Florida; likelihood of survival and spread within each pathway; and supporting documentation (list of references). To remove a plant from the list the following information is required: evidence that the species no longer meets the definition of a noxious weed or invasive plant is distributed throughout its potential range or has spread too far to implement effective control; evidence that control has been unsuccessful and further efforts are not supported or feasible; or there is evidence that the plant is no longer a problem due to successful biological controls or other methods. For cultivars of a listed plant to be exempted, the following information must be supplied by IFAS: evidence of sterility and inability to cross pollinate with wild types, or evidence that the cultivar has narrower habitat suitability, less dispersal potential, less potential for negative impact on the economy and/or environment of Florida and evidence that the plant is not spreading vegetatively. The department will review the application (DACS-08215) and forward it to the Noxious Weed and Invasive Plant Review Committee within 30 days provided all required information has been submitted. The Noxious Weed and Invasive Plant Review Committee will review the application and make a final recommendation to the department to add or remove plants from Rule 5B-57.007, F.A.C. Any exemptions for cultivars, production practices, areas of distribution, or any other reasons will be denoted following the plant name on the Noxious Weed and Invasive Plant List. The department shall make a final determination regarding the disposition of the application within 30 days of receipt of the committee recommendation. Upon making a final determination, the rule amendment process will be initiated if necessary. By emergency rule, the department may add a plant to the list at any time if there is an immediate threat to the agricultural, horticultural, environmental, or public interest of the state.

(2) The Noxious Weed and Invasive Plant List contained in 5B-57.007 shall be subject to review, at least biennially, by the department in conjunction with the Institute of Food and Agricultural Sciences at the University of Florida. The Noxious Weed and Invasive Plant List Review Committee appointed by the department, in accordance with s. 581.091(4), F.S. and s. 570.0705, F.S., will conduct the review. All reviews

will be conducted in accordance with Section 120.525 F.S., which provides for public input. The Vice President for Agricultural and Natural Resources with the University of Florida will recommend two faculty members, one specializing in research on production agriculture and the other on natural resources, to the department to serve on the committee. A representative from the Director’s Office, the Bureau of Plant and Apiary Inspection, and the Botany Section shall represent the department. The Noxious Weed and Invasive Plant List Review Committee will make recommendations to the department to add or remove plants from Rule 5B-57.007, F.A.C., based on the biological justification as described in subsection (1).

Specific Authority 570.07(13), (23) FS. Law Implemented 581.011(18), 581.031(6), 581.091(4) FS. History—New \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE: Constance C. Riherd, Assistant Director, Division of Plant Industry, Department of Agriculture and Consumer Services, Doyle Conner Building, 1911 S. W. 34th Street, Gainesville, Florida 32614-7100, (352)372-3505

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Craig Meyer, Deputy Commissioner for Agricultural Services, Commissioner’s Office Staff, Florida Department of Agriculture and Consumer Services, PL-10, The Capitol, Tallahassee, FL 32399-0810

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: December 12, 2003

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: February 2, 2003

**DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES**

**Division of Agricultural Environmental Services**

RULE CHAPTER NO.:	RULE CHAPTER TITLE:
5E-13	Mosquito Control Program Administration
RULE NOS.:	RULE TITLES:
5E-13.021	Definitions
5E-13.022	Eligibility for State Aid Approved Program and/or Aid
5E-13.027	Certified Budgets, Filing
5E-13.030	State Aid Basis and Availability
5E-13.031	District or County Use of Funds
5E-13.032	Program Directors, Employment and Classification
5E-13.034	Penalty for Failure to Comply with Public Law 92-516, the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) of the U.S. Environmental Protection Agency and their Rules



- 5E-13.036 Demonstrable Increase or Other Indicator of Arthropod Population Level
- 5E-13.037 Aircraft Application for the Control of Adult Arthropods
- 5E-13.039 Protection of Natural Resources and of the Health, Safety, and Welfare of Arthropod Control Employees and the General Public
- 5E-13.040 Criteria for Licensure or Certification of Applicators

**NOTICE OF WITHDRAWAL**

Notice is hereby given that the above rule amendments, as noticed in Vol. 30, No. 1, of the Florida Administrative Weekly on January 2, 2004, have been withdrawn.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Steven Dwinell, Assistant Director, Division of Agricultural Environmental Services, 3215 Conner Blvd., Tallahassee, Florida 32399-1650

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

Pursuant to Chapter 2003-145, Laws of Florida, all notices for the Board of Trustees of the Internal Improvement Trust Fund are published on the Internet at the Department of Environmental Protection’s home page at <http://www.dep.state.fl.us/> under the link or button titled “Official Notices.”

**AGENCY FOR HEALTH CARE ADMINISTRATION**

**Medicaid**

- |           |   |
|-----------|---|
| RULE NO.: | RULE TITLE:                                 |
| 59G-4.260 | Prescribed Pediatric Extended Care Services |

**NOTICE OF CHANGE**

Notice is hereby given that the agency has scheduled an additional Public Hearing on Proposed Rule No. 59G-4.260 published originally in Vol. 29, No. 42, October 17, 2003 Florida Administrative Weekly. The reason for this additional hearing is for clarification of policy regarding transportation.

TIME AND DATE: 9:00 a.m. – 10:00 a.m., Tuesday, March 2, 2004

PLACE: Agency for Health Care Administration, 2727 Mahan Drive, Building #3, Conference Room C, Tallahassee, Florida

**DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION**

**Board of Professional Engineers**

- |              |                                   |
|--------------|-----------------------------------|
| RULE NO.:    | RULE TITLE:                       |
| 61G15-24.001 | Schedule of Fees Adopted by Board |

**NOTICE OF CHANGE**

Notice is hereby given that the following changes have been made to the proposed rule in accordance with subparagraph 120.54(3)(d)1., F.S., published in Vol. 29, No. 41, October 10, 2003, issue of the Florida Administrative Weekly. These changes are being made in response to comments from the Joint Administrative Procedures Committee in a letter dated October 31, 2003.

Subsection (2)(k) is being deleted entirely and subsections (l) through (p) are being renumber (k) through (o).

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

**DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION**

**Florida Real Estate Commission**

- |            |   |
|------------|---|
| RULE NO.:  | RULE TITLE:   |
| 61J2-3.020 | Post-licensing Education for Active and Inactive Broker and Sales Associate Licensees |

**THIRD NOTICE OF CHANGE**

Notice is hereby given that the following changes have been made to the proposed rule referenced above in accordance with subparagraph 120.54(3)(d)1., F.S., originally published in Vol. 29, No. 11, March 14, 2003, issue of the Florida Administrative Weekly and amended in Vol. 29, No. 39, September 26, 2003 and Vol. 29, No. 45, November 7, 2003. These changes are pursuant to the comments made by the Joint Administrative Procedures Committee and for the purpose of publishing the specific text changes to the rule as amended and proposed by the Florida Real Estate Commission.

61J2-3.020 Post-licensing Education for Active and Inactive Broker and Sales Associate Licensees.

(1) No change.

(a) For a licensed sales associate, the post-licensing education requirement shall consist of one or more Commission-approved courses which shall not exceed 45 hours of 50 minutes each, inclusive of examination, in subjects as provided for in Section 475.17(3)(a), Florida Statutes including, but not limited to: agency law, property management, appraisal, real estate finance, or economics of real estate management. Post-licensing courses shall consist of a minimum of 15 hours of instruction of 50 minutes each.

(b) For a broker, the post-licensing education requirement shall consist of one or more Commission-approved courses which shall not exceed total at least 60 hours of 50 minutes each, inclusive of examination, in subjects as provided for in Section 475.17(3)(a), Florida Statutes including, but not limited to: agency law, advanced appraisal, advanced property management, real estate marketing, business law, advanced real estate investment analysis, advanced legal aspects, general

~~accounting, real estate economics, syndications, commercial brokerage, feasibility analysis, advanced real estate finance, residential brokerage, or real estate brokerage office operations.~~

(2) through (3)(a) No change.

(b) Providers must demonstrate that the credit hours awarded for distance learning are appropriate to the course offered. The provider may accomplish this objective by demonstrating that students engaged in distance learning have acquired the knowledge, skills, and/or competencies that are at least equivalent to those acquired by students enrolled in classroom studies. Post-licensure courses shall not be offered by correspondence methods.

1. through 8. No change.

9. End-of-course examinations shall not include aids such as, but not limited to, hint, back, or retry functionalities. The provider must demonstrate that there is a reasonable method in place to prevent duplication of the end-of-course examination. Students shall not take the end-of-course examination without satisfactorily completing all sessions of the syllabus.

~~10.~~ The provider must require the student to submit a statement that includes "I certify that I personally completed all assignments and have not duplicated any portion of the end-of-course examination" prior to the taking of the final examination.

Thereafter, it is the responsibility of the provider offering the Commission-approved courses to keep the course materials current and accurate, as changing times and laws require, and obtain approval from the Commission at least 60 days before implementing any significant changes to the course during its approval period. If the Commission does not approve the course, the provider may resubmit a denied course, with the mandated changes for re-evaluation.

(4) through (10) No change.

Specific Authority 475.05, 475.17 FS. Law Implemented 475.04, 475.17, 475.182 FS. History--New 1-1-89, Amended 1-4-90, 6-28-93, Formerly 21V-3.020, Amended 8-2-95, 12-30-97, 2-24-00, 7-23-00, \_\_\_\_\_.

**DEPARTMENT OF ENVIRONMENTAL PROTECTION**

Pursuant to Chapter 2003-145, Laws of Florida, all notices for the Department of Environmental Protection are published on the Internet at the Department of Environmental Protection's home page at <http://www.dep.state.fl.us/> under the link or button titled "Official Notices."

**DEPARTMENT OF HEALTH**

**Board of Clinical Laboratory Personnel**

RULE NO.:                      RULE TITLE:  
64B3-4.001                      Trainee Registration

**NOTICE OF CHANGE**

Notice is hereby given that the following changes have been made to the proposed rule in accordance with subparagraph 120.54(3)(d)1., F.S., published in the Vol. 29, No. 51, December 19, 2003, issue of the Florida Administrative Weekly. The changes are in response to comments received from the Joint Administrative Procedures Committee.

Subsection (4) of 64B3-4.001 shall now read as follows:

(4) Trainee registration may not be extended beyond its expiration date except upon recommendation of the program director and approval by the Board based upon one of the following circumstances:

(a) through (d) No change.

Specific Authority 483.805(4) FS. Law Implemented 483.809(3), 483.811(2),(3),(4), 483.825, 483.827 FS. History--New 7-20-93, Formerly 21KK-4.001, 61F3-4.001, Amended 4-10-96, 7-3-97, Formerly 59O-4.001, Amended 3-19-98, 2-15-01, 3-24-02, \_\_\_\_\_.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Joe Baker, Jr., Executive Director, Board of Clinical Laboratory Personnel, 4052 Bald Cypress Way, Bin #C07, Tallahassee, Florida 32399-3257

**DEPARTMENT OF HEALTH**

**Board of Occupational Therapy**

RULE NO.:                      RULE TITLE:  
64B11-6.001                      Continuing Education Program  
Approval

**NOTICE OF CHANGE**

Notice is hereby given that the following changes have been made to the proposed rule in accordance with subparagraph 120.54(3)(d)1., F.S., published in Vol. 29, No. 50, December 12, 2003, issue of the Florida Administrative Weekly. The changes are in response to comments received from the Joint Administrative Procedures Committee.

Subsection (4)(a) of the rule shall now read as follows:

(4)(a) Programs meeting the above criteria and offered by the Florida Occupational Therapy Association (FOTA), the American Occupational Therapy Association (AOTA) and occupational therapy courses, meeting the above criteria, provided by an education program approved by an accrediting body for occupational therapy shall be approved by this Board for continuing education and shall not pay the fees required in subsection (1) of this rule.

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

## Section IV Emergency Rules

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

Pursuant to Chapter 2003-145, Laws of Florida, all notices for the Board of Trustees of the Internal Improvement Trust Fund are published on the Internet at the Department of Environmental Protection's home page at <http://www.dep.state.fl.us/> under the link or button titled "Official Notices."

### DEPARTMENT OF THE LOTTERY

RULE TITLE: Instant Game Number 524, CROWN JEWELS  
 RULE NO.: 53ER04-6  
 SUMMARY OF THE RULE: This emergency rule describes Instant Game Number 524, "CROWN JEWELS," for which the Department of the Lottery will start selling tickets on a date to be determined by the Secretary of the Department. The rule sets forth the specifics of the game; determination of prizewinners; estimated odds of winning, value, and number of prizes in the game.  
 THE PERSON TO BE CONTACTED REGARDING THE EMERGENCY RULE IS: Diane D. Schmidt, Legal Analyst, Department of the Lottery, 250 Marriott Drive, Tallahassee, Florida 32399-4011

THE FULL TEXT OF THE EMERGENCY RULE IS:

53ER04-6 Instant Game Number 524, CROWN JEWELS.

(1) Name of Game. Instant Game Number 524, "CROWN JEWELS."

(2) Price. CROWN JEWELS lottery tickets sell for \$5.00 per ticket.

(3) CROWN JEWELS lottery tickets shall have a series of numbers in Machine Readable Code (or bar code) on the back of the ticket, along with a Void If Removed Number under the latex area on the ticket. To be a valid winning CROWN JEWELS lottery ticket, a combination of essential elements sufficient to validate the ticket must be present as set forth in paragraph 53ER92-63(1)(a), Florida Administrative Code. In the event a dispute arises as to the validity of any CROWN JEWELS lottery ticket, or as to the prize amount, the Void If Removed Number under the latex shall prevail over the bar code.

(4) The "YOUR NUMBERS" play symbols and play symbol captions are as follows:

<b>1</b> <small>ONE</small>	<b>2</b> <small>TWO</small>	<b>3</b> <small>THREE</small>	<b>4</b> <small>FOUR</small>	<b>5</b> <small>FIVE</small>	<b>6</b> <small>SIX</small>
<b>7</b> <small>SEVEN</small>	<b>8</b> <small>EIGHT</small>	<b>9</b> <small>NINE</small>	<b>10</b> <small>TEN</small>	<b>11</b> <small>ELEVEN</small>	<b>12</b> <small>TWELVE</small>
<b>13</b> <small>THIRTEEN</small>	<b>14</b> <small>FOURTEEN</small>	<b>15</b> <small>FIFTEEN</small>	<b>16</b> <small>SIXTEEN</small>	<b>17</b> <small>SEVENTEEN</small>	<b>18</b> <small>EIGHTEEN</small>
<b>19</b> <small>NINETEEN</small>	<b>20</b> <small>TWENTY</small>	<b>21</b> <small>THIRTYONE</small>	<b>22</b> <small>THIRTYTWO</small>	<b>23</b> <small>THIRTYTHREE</small>	<b>24</b> <small>THIRTYFOUR</small>
<b>25</b> <small>THIRTYFIVE</small>	<b>26</b> <small>THIRTYSIX</small>	<b>27</b> <small>THIRTYSEVEN</small>	<b>28</b> <small>THIRTYEIGHT</small>	<b>29</b> <small>THIRTYNINE</small>	



(5) The "WINNING NUMBERS" play symbols and play symbol captions are as follows:

<b>1</b> <small>ONE</small>	<b>2</b> <small>TWO</small>	<b>3</b> <small>THREE</small>	<b>4</b> <small>FOUR</small>	<b>5</b> <small>FIVE</small>	<b>6</b> <small>SIX</small>
<b>7</b> <small>SEVEN</small>	<b>8</b> <small>EIGHT</small>	<b>9</b> <small>NINE</small>	<b>10</b> <small>TEN</small>	<b>11</b> <small>ELEVEN</small>	<b>12</b> <small>TWELVE</small>
<b>13</b> <small>THIRTEEN</small>	<b>14</b> <small>FOURTEEN</small>	<b>15</b> <small>FIFTEEN</small>	<b>16</b> <small>SIXTEEN</small>	<b>17</b> <small>SEVENTEEN</small>	<b>18</b> <small>EIGHTEEN</small>
<b>19</b> <small>NINETEEN</small>	<b>20</b> <small>TWENTY</small>	<b>21</b> <small>THIRTYONE</small>	<b>22</b> <small>THIRTYTWO</small>	<b>23</b> <small>THIRTYTHREE</small>	<b>24</b> <small>THIRTYFOUR</small>
<b>25</b> <small>THIRTYFIVE</small>	<b>26</b> <small>THIRTYSIX</small>	<b>27</b> <small>THIRTYSEVEN</small>	<b>28</b> <small>THIRTYEIGHT</small>	<b>29</b> <small>THIRTYNINE</small>	

(6) The prize symbols and prize symbol captions are as follows:

<b>\$1.00</b> <small>ONE</small>	<b>\$2.00</b> <small>TWO</small>	<b>\$4.00</b> <small>FOUR</small>	<b>\$5.00</b> <small>FIVE</small>	<b>\$10.00</b> <small>TEN</small>	<b>\$15.00</b> <small>FIFTEEN</small>
<b>\$25.00</b> <small>THY FIV</small>	<b>\$50.00</b> <small>FIFTY</small>	<b>\$75.00</b> <small>SVY FIV</small>	<b>\$100</b> <small>ONE HUN</small>	<b>\$200</b> <small>TWO HUN</small>	<b>\$500</b> <small>FIV HUN</small>
<b>\$1,000</b> <small>ONE THO</small>	<b>\$10,000</b> <small>TEN THO</small>	<b>\$100,000</b> <small>ONE HUN THO</small>			

(7) The legends are as follows:

WINNING NUMBERS      YOUR NUMBERS

(8) Determination of Prizewinners.

(a) A ticket having a number in the "YOUR NUMBERS" play area that matches any number in the "WINNING NUMBERS" play area shall entitle the claimant to the prize shown for that number. A ticket may have up to fifteen sets of matching numbers. The prizes are: \$1.00, \$2.00, \$4.00, \$5.00, \$10.00, \$15.00, \$25.00, \$50.00, \$75.00, \$100, \$200, \$500, \$1,000, \$10,000 and \$100,000.



(b) A ticket having a “WIN \$50” symbol in the “YOUR NUMBERS” play area shall entitle the claimant to a prize of \$50.

(9) The estimated odds of winning, value, and number of prizes in Instant Game Number 524 are as follows:

GAME PLAY	WIN	NUMBER OF WINNERS IN 34 POOLS OF 120,000 TICKETS PER POOL	
		ODDS OF 1 IN	
\$1 x 5	\$5	30.00	136,000
(\$1 x 3) + \$2	\$5	30.00	136,000
\$1 + (\$2 x 2)	\$5	30.00	136,000
\$5	\$5	30.00	136,000
\$1 x 10	\$10	30.00	136,000
\$2 + (\$4 x 2)	\$10	60.00	68,000
(\$1 x 4) + (\$2 x 3)	\$10	60.00	68,000
\$1 + (\$2 x 2) + \$5	\$10	120.00	34,000
\$10	\$10	120.00	34,000
\$1 x 15	\$15	60.00	68,000
\$15	\$15	60.00	68,000
\$5 x 5	\$25	300.00	13,600
(\$5 x 3) + \$10	\$25	400.00	10,200
\$5 + (\$10 x 2)	\$25	300.00	13,600
(\$2 x 5) + \$5 + \$10	\$25	300.00	13,600
(\$1 x 5) + (\$2 x 10)	\$25	400.00	10,200
\$25	\$25	600.00	6,800
\$50 (TREASURE CHEST)	\$50	100.00	40,800
\$5 x 15	\$75	20,000.00	204
\$5 + (\$10 x 7)	\$75	20,000.00	204
(\$5 x 5) + \$50	\$75	20,000.00	204
(\$10 x 5) + \$25	\$75	20,000.00	204
\$75	\$75	20,000.00	204
\$10 + (\$15 x 6)	\$100	1,200.00	3,400
(\$5 x 10) + (\$10 x 5)	\$100	1,200.00	3,400
\$25 x 4	\$100	1,200.00	3,400
(\$25 x 2) + \$50	\$100	1,200.00	3,400
\$100	\$100	1,200.00	3,400
\$50 x 10	\$500	136,000.00	30
(\$25 x 10) + (\$50 x 5)	\$500	136,000.00	30
\$500	\$500	136,000.00	30
\$100 x 10	\$1,000	272,000.00	15
\$200 x 5	\$1,000	340,000.00	12
(\$50 x 10) + (\$100 x 5)	\$1,000	340,000.00	12
\$500 x 2	\$1,000	340,000.00	12
\$1,000	\$1,000	408,000.00	10
\$1,000 x 10	\$10,000	1,020,000.00	4
(\$500 x 10) + (\$1,000 x 5)	\$10,000	1,360,000.00	3
\$10,000	\$10,000	1,360,000.00	3
\$100,000	\$100,000	2,040,000.00	2

(10) The estimated overall odds of winning some prize in Instant Game Number 524 are 1 in 3.56. Prizes, including the top prizes, are subject to availability at the time of ticket purchase. Prizes may be unavailable due to prior sale or other causes occurring in the normal course of business including, but not limited to, ticket damage, defect, theft, or loss.

(11) For reorders of Instant Game Number 524, the estimated odds of winning, value, and number of prizes shall be proportionate to the number of tickets reordered.

(12) By purchasing a CROWN JEWELS lottery ticket the player agrees to comply with and abide by all rules and regulations of the Florida Lottery.

(13) Payment of prizes for CROWN JEWELS lottery tickets shall be made in accordance with rules of the Florida Lottery governing procedures for awarding prizes. A copy of the current rule can be obtained from the Florida Lottery, Office of the General Counsel, 250 Marriott Drive, Tallahassee, Florida 32399-4011.

Specific Authority 24.105(9)(a),(b),(c), 24.109(1), 24.115(1) FS. Law Implemented 24.105(9)(a),(b),(c), 24.115(1) FS. History—New 1-30-04.

THIS EMERGENCY RULE TAKES EFFECT IMMEDIATELY UPON BEING FILED WITH THE DEPARTMENT OF STATE.

EFFECTIVE DATE: January 30, 2004

**DEPARTMENT OF THE LOTTERY**

RULE TITLE: Instant Game Number 526, BEE LUCKY  
 RULE NO.: 53ER04-7

SUMMARY OF THE RULE: This emergency rule describes Instant Game Number 526, “BEE LUCKY,” for which the Department of the Lottery will start selling tickets on a date to be determined by the Secretary of the Department. The rule sets forth the specifics of the game; determination of prizewinners; estimated odds of winning, value, and number of prizes in the game.

THE PERSON TO BE CONTACTED REGARDING THE EMERGENCY RULE IS: Diane D. Schmidt, Legal Analyst, Department of the Lottery, 250 Marriott Drive, Tallahassee, Florida 32399-4011.

THE FULL TEXT OF THE EMERGENCY RULE IS:

53ER04-7 Instant Game Number 526, BEE LUCKY.

(1) Name of Game. Instant Game Number 526, “BEE LUCKY.”

(2) Price. BEE LUCKY lottery tickets sell for \$1.00 per ticket.

(3) BEE LUCKY lottery tickets shall have a series of numbers in Machine Readable Code (or bar code) on the back of the ticket, along with a Void If Removed Number under the latex area on the ticket. To be a valid winning BEE LUCKY lottery ticket, a combination of essential elements sufficient to validate the ticket must be present as set forth in Rule 53ER92-63(1)(a), Florida Administrative Code. In the event a dispute arises as to the validity of any BEE LUCKY lottery ticket, or as to the prize amount, the Void If Removed Number under the latex shall prevail over the bar code.

(4) The "YOUR NUMBERS" play symbols and play symbol captions are as follows:

<b>1</b> ONE	<b>2</b> TWO	<b>3</b> THREE	<b>4</b> FOUR	<b>5</b> FIVE	<b>6</b> SIX
<b>7</b> SEVEN	<b>8</b> EIGHT	<b>9</b> NINE	<b>10</b> TEN	<b>11</b> ELEVEN	<b>12</b> TWELVE
<b>13</b> THIRTEEN	<b>14</b> FOURTEEN	<b>15</b> FIFTEEN	<b>16</b> SIXTEEN	<b>17</b> SEVENTEEN	<b>18</b> EIGHTEEN
<b>19</b> NINETEEN					



NUMBER OF WINNERS IN 56 POOLS OF 180,000 TICKETS PER POOL	ODDS OF 1 IN
1,008,000	10.00
1,008,000	10.00
336,000	30.00
134,400	75.00
67,200	150.00
33,600	300.00
33,600	300.00
22,400	450.00
8,400	1,200.00
3,360	3,000.00
500	20,160.00
18	560,000.00
10	1,008,000.00

GAME PLAY TICKET	WIN \$1 TICKET
\$1	\$1
\$1 x 2	\$2
\$1 x 5	\$5
\$2 x 5	\$10
\$5 x 3	\$15
\$5 x 4	\$20
\$25 (MONEYBAG)	\$25
(\$5 x 4) + \$10	\$30
\$10 x 5	\$50
\$20 x 5	\$100
\$100 x 5	\$500
\$2,500	\$2,500

(5) The "HONEYPOT NUMBER" play symbols and play symbol captions are as follows:

<b>1</b> ONE	<b>2</b> TWO	<b>3</b> THREE	<b>4</b> FOUR	<b>5</b> FIVE	<b>6</b> SIX
<b>7</b> SEVEN	<b>8</b> EIGHT	<b>9</b> NINE	<b>10</b> TEN	<b>11</b> ELEVEN	<b>12</b> TWELVE
<b>13</b> THIRTEEN	<b>14</b> FOURTEEN	<b>15</b> FIFTEEN	<b>16</b> SIXTEEN	<b>17</b> SEVENTEEN	<b>18</b> EIGHTEEN
<b>19</b> NINETEEN					

(6) The prize symbols and prize symbol captions are as follows:

<b>TICKET</b>	<b>\$1.00</b>	<b>\$2.00</b>	<b>\$5.00</b>	<b>\$10.00</b>	<b>\$20.00</b>
TICKET	ONE	TWO	FIVE	TEN	TWENTY
<b>\$25.00</b>	<b>\$100</b>	<b>\$2,500</b>			
THY FIV	ONE HUN	THY FIV HUN			

(7) The legends are as follows:

YOUR NUMBERS HONEYPOT NUMBER

(8) Determination of Prizewinners.

(a) A ticket having a number in the "YOUR NUMBERS" play area that matches the number in the "HONEYPOT NUMBER" play area shall entitle the claimant to the prize shown for that number. A ticket may have up to five sets of matching numbers. The prizes are: TICKET, \$1.00, \$2.00, \$5.00, \$10.00, \$20.00, \$25.00, \$100, and \$2,500. A claimant who is entitled to a prize of a "TICKET" shall be entitled to a \$1.00 ticket, except as follows. A person who submits by mail a BEE LUCKY lottery ticket which entitles the claimant to a prize of a \$1.00 ticket and whose mailing address is outside the state of Florida will receive a check for \$1.00 in lieu of an actual ticket.



(b) A ticket having a "WIN \$25" symbol in the "YOUR NUMBERS" play area shall entitle the claimant to a prize of \$25.

(9) The estimated odds of winning, value, and number of prizes in Instant Game Number 526 are as follows:

(10) The estimated overall odds of winning some prize in Instant Game Number 526 are 1 in 3.80. Prizes, including the top prizes, are subject to availability at the time of ticket purchase. Prizes may be unavailable due to prior sale or other causes occurring in the normal course of business including, but not limited to, ticket damage, defect, theft, or loss.

(11) For reorders of Instant Game Number 526, the estimated odds of winning, value, and number of prizes shall be proportionate to the number of tickets reordered.

(12) By purchasing a BEE LUCKY lottery ticket the player agrees to comply with and abide by all rules and regulations of the Florida Lottery.

(13) Payment of prizes for BEE LUCKY lottery tickets shall be made in accordance with rules of the Florida Lottery governing procedures for awarding prizes. A copy of the current rule can be obtained from the Florida Lottery, Office of the General Counsel, 250 Marriott Drive, Tallahassee, Florida 32399-4011.

Specific Authority 24.105(9)(a),(b),(c), 24.109(1), 24.115(1) FS. Law Implemented 24.105(9)(a),(b),(c), 24.115(1) FS. History—New 1-30-04.

THIS EMERGENCY RULE TAKES EFFECT IMMEDIATELY UPON BEING FILED WITH THE DEPARTMENT OF STATE.

EFFECTIVE DATE: January 30, 2004

**DEPARTMENT OF THE LOTTERY**

RULE TITLE: Instant Game Number 525, WILD 7'S  
 RULE NO.: 53ER04-8

SUMMARY OF THE RULE: This emergency rule describes Instant Game Number 525, "WILD 7'S," for which the Department of the Lottery will start selling tickets on a date to be determined by the Secretary of the Department. The rule sets forth the specifics of the game; determination of prizewinners; estimated odds of winning, value, and number of prizes in the game.

THE PERSON TO BE CONTACTED REGARDING THE EMERGENCY RULE IS: Diane D. Schmidt, Legal Analyst, Department of the Lottery, 250 Marriott Drive, Tallahassee, Florida 32399-4011

THE FULL TEXT OF THE EMERGENCY RULE IS:



53ER04-8 Instant Game Number 525, WILD 7'S.

(1) Name of Game. Instant Game Number 525, "WILD 7'S."

(2) Price. WILD 7'S lottery tickets sell for \$2.00 per ticket.

(3) WILD 7'S lottery tickets shall have a series of numbers in Machine Readable Code (or bar code) on the back of the ticket, along with a Void If Removed Number under the latex area on the ticket. To be a valid winning WILD 7'S lottery ticket, a combination of essential elements sufficient to validate the ticket must be present as set forth in Rule 53ER92-63(1)(a), Florida Administrative Code. In the event a dispute arises as to the validity of any WILD 7'S lottery ticket, or as to the prize amount, the Void If Removed Number under the latex shall prevail over the bar code.

(4) The play symbols and play symbol captions are as follows:

<b>1</b>	<b>2</b>	<b>3</b>	<b>4</b>
ONE	TWO	THREE	FOUR
<b>5</b>	<b>6</b>		
FIVE	SIX		
			
	SEVEN		
<b>8</b>	<b>9</b>		
EIGHT	NINE		
			
	WIN \$50		

(5) The uncovered legend is as follows:

PLAY AREA

(6) Determination of Prizewinners.



(a) A ticket having three or more " SEVEN " symbols in the play area shall entitle the claimant to the corresponding prize



shown in the prize legend for the number of " SEVEN " symbols appearing in the play area. The prizes are: FREE TICKET, \$2, \$5, \$10, \$20, \$30, \$50, \$100, \$250, \$500, \$10,000. A claimant who is entitled to a prize of a "FREE TICKET" shall be entitled to a prize of a ticket or combination of instant tickets with a total value of \$2.00, except as follows. A person who submits by mail a WILD 7'S lottery ticket which

entitles the claimant to a prize of a \$2.00 ticket and whose mailing address is outside the state of Florida will receive a check for \$2.00 in lieu of an actual ticket.



(b) A ticket having a " WIN \$50 " symbol in the play area shall entitle the claimant to a prize of \$50.

(7) The estimated odds of winning, value, and number of prizes in Instant Game Number 525 are as follows:

GAME PLAY	WIN	ODDS OF 1 IN	NUMBER OF WINNERS IN 42 POOLS OF 180,000 TICKETS PER POOL
3-7's	\$2 TICKET	10.00	756,000
4-7's	\$2	15.00	504,000
5-7's	\$5	15.00	504,000
6-7's	\$10	37.50	201,600
7-7's	\$20	150.00	50,400
8-7's	\$30	300.00	25,200
\$50 (MONEYBAG)	\$50	450.00	16,800
9-7's	\$100	1,200.00	6,300
10-7's	\$250	11,250.00	672
11-7's	\$500	504,000.00	15
12-7's	\$10,000	2,520,000.00	3

(8) The estimated overall odds of winning some prize in Instant Game Number 525 are 1 in 3.66. Prizes, including the top prizes, are subject to availability at the time of ticket purchase. Prizes may be unavailable due to prior sale or other causes occurring in the normal course of business including, but not limited to, ticket damage, defect, theft, or loss.

(9) For reorders of Instant Game Number 525, the estimated odds of winning, value, and number of prizes shall be proportionate to the number of tickets reordered.

(10) By purchasing a WILD 7'S lottery ticket the player agrees to comply with and abide by all rules and regulations of the Florida Lottery.

(11) Payment of prizes for WILD 7'S lottery tickets shall be made in accordance with rules of the Florida Lottery governing procedures for awarding prizes. A copy of the current rule can be obtained from the Florida Lottery, Office of the General Counsel, 250 Marriott Drive, Tallahassee, Florida 32399-4011.

Specific Authority 24.105(9)(a),(b),(c), 24.109(1), 24.115(1) FS. Law Implemented 24.105(9)(a),(b),(c), 24.115(1) FS. History—New 1-30-04.

THIS EMERGENCY RULE TAKES EFFECT IMMEDIATELY UPON BEING FILED WITH THE DEPARTMENT OF STATE.

EFFECTIVE DATE: January 30, 2004

**DEPARTMENT OF ENVIRONMENTAL PROTECTION**

Pursuant to Chapter 2003-145, Laws of Florida, all notices for the Department of Environmental Protection are published on the Internet at the Department of Environmental Protection's home page at <http://www.dep.state.fl.us/> under the link or button titled "Official Notices."

## Section V

### Petitions and Dispositions Regarding Rule Variance or Waiver

#### DEPARTMENT OF COMMUNITY AFFAIRS

NOTICE IS HEREBY GIVEN that Florida Communities Trust, within the Department of Community Affairs, received a Petition for Waiver on January 29, 2004, from the City of Green Cove Springs relating to the Green Cove Springs Nature Preserve Project (FCT #02-045-FF2). The petitioner seeks a waiver of a portion of subsection 9K-7.003(5), Fla. Admin. Code. More specifically, the petitioner seeks a temporary three month waiver from the property acquisition time constraints of the above-mentioned rule subsection. This waiver is being requested pursuant to the provisions of Section 120.542, Fla. Stat., and Rule 28-104.002, Fla. Admin Code.

A copy of the Petition, which has been assigned the number DCA04-WAI-031, may be obtained by writing: Paula P. Ford, Agency Clerk, Department of Community Affairs, 2555 Shumard Oak Boulevard, Tallahassee, Florida 32399-2100.

NOTICE IS HEREBY GIVEN that Florida Communities Trust, within the Department of Community Affairs, received a Petition for Waiver on January 30, 2004, from Indian River County relating to the Kroegel Homestead Project (FCT #02-058-FF2). The petitioner seeks a waiver of a portion of subsection 9K-7.003(5), Fla. Admin. Code. More specifically, the petitioner seeks a waiver from the property acquisition time constraints of the above-mentioned rule subsection. This waiver is being requested pursuant to the provisions of Section 120.542, Fla. Stat., and Rule 28-104.002, Fla. Admin Code.

A copy of the Petition, which has been assigned the number DCA04-WAI-032, may be obtained by writing: Paula P. Ford, Agency Clerk, Department of Community Affairs, 2555 Shumard Oak Boulevard, Tallahassee, Florida 32399-2100.

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

Pursuant to Chapter 2003-145, Laws of Florida, all notices for the Board of Trustees of the Internal Improvement Trust Fund are published on the Internet at the Department of Environmental Protection's home page at <http://www.dep.state.fl.us/> under the link or button titled "Official Notices."

#### DEPARTMENT OF ENVIRONMENTAL PROTECTION

Pursuant to Chapter 2003-145, Laws of Florida, all notices for the Department of Environmental Protection are published on the Internet at the Department of Environmental Protection's home page at <http://www.dep.state.fl.us/> under the link or button titled "Official Notices."

#### DEPARTMENT OF HEALTH

Notice is hereby given that on January 27, 2004, the Board of Clinical Laboratory Personnel filed an Order disposing of a petition for variance from Rule 64B3-11.004, Florida Administrative Code, filed by Bio-Rad Laboratories, Inc. Rule 64B3-11.004, Florida Administrative Code, requires that providers of continuing education pay the application fee and obtain Board approval prior to the first course being offered. The petition was filed with the Board on December 3, 2003, and noticed in Vol. 29, No. 51, issue of the Florida Administrative Weekly on December 19, 2003. No public comments were received.

The Order provides in summary, that the Board's approval of Petitioner's continuing education providership shall take effect retroactively to include the courses it held between April 28 and June 26, 2003. Accordingly, the petition for variance from Rule 64B3-11.004, Florida Administrative Code, has been granted.

A copy of the Order may be obtained from: Amy Carraway, Deputy Agency Clerk, Department of Health, Division of Medical Quality Assurance, Bin #C01, 4052 Bald Cypress Way, Tallahassee, Florida 32399-3251, (850)245-4121.

The Board of Medicine hereby gives notice that it has issued an Order on the Petition for Waiver filed by Hal Unschuld, M.D. The Notice of Petition for Waiver was published in Vol. 29, No. 41, of the September 29, 2003, Florida Administrative Weekly. The Board considered the Petition at its meeting held on December 6, 2003, in Tampa, Florida. The Board's Order, filed on January 23, 2004, denies the petition for waiver finding that the underlying purpose of the statute has not been met, as implemented by Rule 64B8-13.004, F.A.C. In addition, the Board's Order denies the petition since the applicant was unable to demonstrate a substantial hardship or a violation of the principles of fairness. A copy of the Board's Order may be obtained by contacting the Board of Medicine, 4052 Bald Cypress Way, Bin # C03, Tallahassee, Florida 32399-3753.

NOTICE IS HEREBY GIVEN that the Department of Health issued a Final Order on January 21, 2004, in response to a petition for a variance filed by Rebecca Spencer. Petitioner sought a waiver of subsection 64B21-500.005(2), Florida Administrative Code, with respect to the 1 1/2 contact hours per week of face-to-face interactive supervision requirement for licensure.

The Department found the Petitioner demonstrated that strict application of the rules would violate principles of fairness and would create a substantial hardship in her particular circumstance. Therefore, pursuant to the requirements of Section 120.542(2), F.S., the Department GRANTED Petitioner's request for a variance.

For a copy of the petition and final order, contact: Kaye Howerton, Executive Director, Department of Health, Office of School Psychology, 4052 Bald Cypress Way, Bin C-05, Tallahassee, Florida 32399.

**FLORIDA HOUSING FINANCE CORPORATION**

FLORIDA HOUSING FINANCE CORPORATION gives notice of the entry of an Order Granting a Petition for Waiver  
 NAME OF THE PETITIONER: The Housing League, Inc.

DATE PETITION WAS FILED: December 12, 2003

RULE NUMBER AND NATURE OF THE RULE FROM WHICH THE WAIVER OR VARIANCE IS SOUGHT: subsection 67-50.005(8), Florida Administrative Code, which states that all development site related documentation be submitted to the credit underwriter within sixty days of entering into credit underwriting.

REFERENCE TO THE PLACE AND DATE OF THE PUBLICATION OF THE NOTICE OF PETITION: Florida Administrative Weekly, December 26, 2003, Vol. 29, No. 52.

THE DATE THE BOARD OF DIRECTORS OF FLORIDA HOUSING FINANCE CORPORATION ORDER APPROVED THE VARIANCE OR WAIVER: January 26, 2004.

THE GENERAL BASIS FOR THE DECISION:

The purpose of the underlying statute is to make loans to Eligible Housing Providers and Eligible Home Buyers for the construction of affordable housing. The waiver will further this purpose.

EXPLANATION OF HOW A COPY OF THE ORDER CAN BE OBTAINED: A copy of the Order is available for public inspection during normal business hours, 8:00 a.m. – 5:00 p.m., Monday through Friday, except legal holidays, at Florida Housing Finance Corporation, 227 N. Bronough St., Suite 5000, Tallahassee, FL 32301-1329. Requests for copies or inspections should be made to Sherry Green, Public Records Clerk, at the above address, telephone (850)488-4198, or e-mail: Sherry.Green@floridahousing.org.

**Section VI**  
**Notices of Meetings, Workshops and Public Hearings**

**DEPARTMENT OF STATE**

The Board of Directors of the **Northeast Florida Preservation Inc.** announces a public meeting to which all persons are invited.

DATE AND TIME: Monday, March 1, 2004, 10:00 a.m.

PLACE: Jacksonville Historical Society Office, 317 A. Philip Randolph Way, Jacksonville, Florida

GENERAL SUBJECT MATTER TO BE CONSIDERED: General Business Meeting.

A copy of the agenda may be obtained by writing: St. Augustine Regional Office, P. O. Box 4168, St. Augustine, FL 32085.

Should any person wish to appeal any decision made with respect to the above referenced meeting, he or she may need to ensure verbatim recording of the proceedings in order to provide a record for judicial review.

Pursuant to Chapter 286.26, Florida Statutes, any handicapped person wishing to attend this meeting should contact the agency at least 48 hours prior to the meeting in order to request special assistance.

The **Department of State, Division of Historical Resources** announces a Historic Marker conference call to which all interested persons are invited to participate.

DATE AND TIME: Thursday, March 11, 2004, 11:00 a.m. (EST)

PLACE: Room 306B, R. A. Gray Building, 500 S. Bronough St., Tallahassee, FL 32399-0250

GENERAL SUBJECT MATTER TO BE CONSIDERED: To Review Historical Marker applications.

A copy of the agenda may be obtained by writing: Florida State Historical Marker Program, Bureau of Historic Preservation, Division of Historical Resources, 500 S. Bronough St., Tallahassee, FL 32399-0250.

Should any person wish to appeal any decision made with respect to the above referenced meeting, she or he may need to ensure verbatim recording of the proceedings in order to provide a record for judicial review.

Pursuant to Chapter 286.26, Florida Statutes, people with disabilities wishing to attend this meeting should contact the agency at least 48 hours prior to the meeting in order to request any special assistance.



**DEPARTMENT OF LEGAL AFFAIRS**

The LCSW Task Force Committee of the Florida **Commission on the Status of Women** will hold a telephone conference call to which all interested persons are invited to participate.

DATE AND TIME: Wednesday, February 25, 2004, 2:30 p.m.

PLACE: Call (850)414-3300 for information on participation

GENERAL SUBJECT MATTER TO BE CONSIDERED: To discuss general issues.

If you need an accommodation because of disability in order to participate, please notify FCSW in writing at least five days in advance at Office of the Attorney General, The Capitol, Tallahassee, FL 32399-1050.

Note: If a quorum of members does not attend, items on this agenda will be discussed as a workshop by those present, and notes will be recorded although no formal action will be taken. If you have any questions, please call (850)414-3300.

The Ad Hoc Committee to Review State Commissions on the Status of Women of the Florida **Commission on the Status of Women** will hold a telephone conference to which all interested persons are invited to participate.

DATE AND TIME: Thursday, February 26, 2004, 10:00 a.m.

PLACE: Call (850)414-3300 for information on participation

GENERAL SUBJECT MATTER TO BE CONSIDERED: To discuss general issues.

If you need an accommodation because of disability in order to participate, please notify FCSW in writing at least five days in advance at Office of the Attorney General, The Capitol, Tallahassee, FL 32399-1050.

Note: If a quorum of members does not attend, items on this agenda will be discussed as a workshop by those present, and notes will be recorded although no formal action will be taken. If you have any questions, please call (850)414-3300.

**DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES**

The **Department of Agriculture and Consumer Services** announces a meeting of the Pest Control Enforcement Advisory Council.

DATE AND TIME: April 22, 2004, 9:00 a.m.

PLACE: Suwanee Regional Library, 1848 S. Ohio Avenue, Live Oak, Florida 32060, (386)362-2317

GENERAL SUBJECT MATTER TO BE DISCUSSED: To discuss the business of the Council.

A copy of the agenda may be obtained by calling: Steven Dwinell, Florida Department of Agriculture and Consumer Services, (850)488-7447.

The Florida **Department of Agriculture and Consumer Services, Division of Forestry** (DOF) and the Lake George State Forest Management Plan Advisory Group announce two public meetings and a public hearing to which all persons are invited.

Public Meeting – Lake George State Forest Management Plan Advisory Group

DATE AND TIME: Wednesday, February 25, 2004, 6:30 p.m.

PLACE: Volusia County Agricultural Center, 3100 East New York Avenue, DeLand, Florida

GENERAL SUBJECT MATTER TO BE CONSIDERED: To allow the Lake George State Forest Management Plan Advisory Group to prepare for a public hearing the evening of February 25, 2004 and provide recommendations to the DOF to help in preparation of a management plan for the Lake George State Forest.

Public Hearing

DATE AND TIME: Wednesday, February 25, 2004, 7:00 p.m.

PLACE: Volusia County Agricultural Center, 3100 East New York Avenue, DeLand, Florida

GENERAL SUBJECT MATTER TO BE CONSIDERED: To solicit public comments on management of the Lake George State Forest.

Comments may be presented orally or in writing at the hearing. Written comments may also be submitted to Cathy Lowenstein, Lake George State Forest, 5458 North Highway 17, DeLeon Springs, FL 32130, and should be mailed so as to arrive at the office by the date of the public hearing.

Public Meeting – Lake George State Forest Management Plan Advisory Group

DATE AND TIME: Thursday, February 26, 2004, 9:00 a.m.

PLACE: DeLeon Forestry Station, 5458 N. Highway 17, DeLeon Springs, Florida

GENERAL SUBJECT MATTER TO BE CONSIDERED: To allow the Lake George State Forest Management Plan Advisory Group to review comments from the public hearing of February 25, 2004 and provide recommendations to the DOF to help in preparation of a management plan for the Lake George State Forest.

Copies of a working draft of the plan are available by contacting the Lake George State Forest in writing at the above address or contacting Cathy Lowenstein, (386)985-7820.

Special accommodations for persons with disabling condition should be requested in writing at least 48 hours in advance of these proceedings. Any request for special accommodations can be made by writing to the DOF's Lake George State Forest Office at the above listed address.

You are hereby notified in accordance with Chapter 286.0105, Florida Statutes, should you decide to appeal any decision made as a result of, or take exception to any findings of fact with respect to any matter considered at the hearing and meeting referred to above, you may need to ensure that a

verbatim record of the proceedings is made. Such record shall include the testimony and evidence upon which the appeal is to be based.

The Florida **Department of Agriculture and Consumer Services** announces a Notice of Public Workshop for the Feed Industry to which all persons are invited:

Feed Industry Workshop

DATE AND TIME: Tuesday, March 9, 2004, 1:30 p.m.

PLACE: The Terry L. Rhodes Building, 2005 Apalachee Parkway, 2nd Floor, Tallahassee, FL 32399

GENERAL SUBJECT MATTER TO BE CONSIDERED: To discuss the feed issues facing the Feed Industry in the state.

For a copy of the agenda, please contact: Mr. Dale Dubberly, Florida Department of Agriculture and Consumer Services, 3125 Conner Boulevard, Building 8, L-29, Tallahassee, Florida 32399-1650, (850)488-8731.

If special accommodations are needed to attend this meeting because of a disability, please call Dale Dubberly as soon as possible.

**DEPARTMENT OF EDUCATION**

The Florida **Department of Education**, State Advisory Committee for the Education of Exceptional Students announces a public meeting to which all interested persons are invited.

DATES AND TIMES: Tuesday, February 24, 2004, 1:30 p.m. – 5:00 p.m. (with a planned evening function); Wednesday, February 25, 2004, 8:30 a.m. – 12:00 p.m. (meeting times may be adjusted at the discretion of the committee; The Executive Committee will meet from 10:00 a.m. – 12:00 Noon on Tuesday)

PLACE: Radisson Hotel, 415 North Monroe Street, Tallahassee, Florida, (850)224-6000

GENERAL SUBJECT MATTER TO BE CONSIDERED: Exceptional student education update and scheduled meeting of the State Advisory Committee, which is required under the Individuals with Disabilities Education Act (20 U.S.C. Chapter 33, as amended by Pub. L. 105-17) for the purpose of providing policy guidance with respect to special education and related services with children with disabilities in the State.

A copy of the agenda may be contained by writing: State Advisory Committee, Bureau of Instructional Support and Community Services, Florida Department of Education, Room 614, Turlington Building, Tallahassee, Florida 32399-0400, (850)245-0475 or Suncom 205-0475.

Any person requiring special accommodations to participate in this meeting is asked to advise the Bureau, at least 48 hours in advance by calling the number indicated above.

The public is invited to a meeting of the Executive Committee of the Florida **Board of Governors**.

DATE AND TIME: February 26, 2004, 9:00 a.m. – 4:00 p.m.

PLACE: By Telephone Conference Call, 1505 Turlington Building, 325 W. Gaines Street, Tallahassee, Florida

GENERAL SUBJECT MATTER TO BE CONSIDERED: Consideration of the Board’s proposed legislative package; and other matters pertaining to the Florida Board of Governors.

A copy of the agenda may be obtained from the Commissioner of Education’s website: <http://www.fldoe.org>.

Persons with disabilities who require assistance to participate in the meeting are requested to notify the Office of Access and Equity, (850)245-9531 (Voice), at least 7 days in advance, so that their needs can be accommodated.

The State of Florida, **Department of Education, Education Practices Commission** announces a New Commission Member Training Session to which the public is invited to observe (public comment will not be taken).

New Commission Member Training Session

DATE AND TIME: February 26, 2004, 9:00 a.m.

PLACE: Crowne Plaza Hotel, 5555 Hazeltine National Drive, Orlando, Florida 32812, (407)856-0100

GENERAL SUBJECT MATTER TO BE CONSIDERED: The Education Practices Commission considers final agency action in matters dealing with the disciplining of certified educators. This Training Session will serve to train new members of the Education Practices Commission who will sit on future Teacher and/or Administrator Hearing Panels.

Additional information may be obtained by writing: Education Practices Commission, 325 W. Gaines Street, Room 224, Turlington Building, Tallahassee, Florida 32399-0400.

SPECIAL ACCOMMODATION: Any person requiring a special impairment accommodation should contact Kathleen M. Richards, (850)245-0455, at least five (5) calendar days prior to the hearing. Persons who are hearing or speech impaired can contact the Commission using the Florida Dual Party Relay System at 711.

The State of Florida, **Department of Education, Education Practices Commission** announces an Administrator Hearing Panel all persons are invited.

Administrator Hearing

DATE AND TIME: February 26, 2004, 1:30 p.m.

PLACE: Crowne Plaza Hotel, 5555 Hazeltine National Drive, Orlando, Florida 32812, (407)856-0100

GENERAL SUBJECT MATTER TO BE CONSIDERED: The Administrator Hearing Panel of the Education Practices Commission will consider final agency action in matters dealing with the disciplining of certified educators.

If a person decides to appeal any decision made by the Commission with respect to any matter considered at this hearing, he or she will need to ensure that a verbatim record of the proceeding is made. The record will include the testimony and evidence upon which the appeal is to be based.

Additional information may be obtained by writing: Education Practices Commission, 325 W. Gaines Street, Room 224, Turlington Building, Tallahassee, Florida 32399-0400.

**SPECIAL ACCOMMODATION:** Any person requiring a special impairment accommodation should contact Kathleen M. Richards, (850)245-0455, at least five (5) calendar days prior to the hearing. Persons who are hearing or speech impaired can contact the Commission using the Florida Dual Party Relay System at 711.

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The State of Florida, **Department of Education, Education Practices Commission** announces a Commission Member In-Service Session; the public is invited to observe (public comment will not be taken).

Commission Member In-Service Session

**DATE AND TIME:** February 26, 2004, immediately following the Administrator Hearing Panel at 1:30 p.m. or as soon thereafter as possible

**PLACE:** Crowne Plaza Hotel, 5555 Hazeltine National Drive, Orlando, Florida 32812, (407)856-0100

**GENERAL SUBJECT MATTER TO BE CONSIDERED:** The Education Practices Commission considers final agency action in matters dealing with the disciplining of certified educators. This In-Service Session will be provided to current members of the Education Practices Commission who will sit on future Teacher and/or Administrator Hearing Panels.

Additional information may be obtained by writing: Education Practices Commission, 325 W. Gaines Street, Room 224, Turlington Building, Tallahassee, Florida 32399-0400.

**SPECIAL ACCOMMODATION:** Any person requiring a special impairment accommodation should contact Kathleen M. Richards, (850)245-0455, at least five (5) calendar days prior to the hearing. Persons who are hearing or speech impaired can contact the Commission using the Florida Dual Party Relay System at 711.

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The State of Florida, **Department of Education, Education Practices Commission** announces a Teacher Hearing Panel; all persons are invited.

Teacher Hearing

**DATE AND TIME:** February 27, 2004, 9:00 a.m.

**PLACE:** Crowne Plaza Hotel, 5555 Hazeltine National Drive, Orlando, Florida 32812, (407)856-0100

**GENERAL SUBJECT MATTER TO BE CONSIDERED:** The Teacher Hearing Panel of the Education Practices Commission will consider final agency action in matters dealing with the disciplining of certified educators.

If a person decides to appeal any decision made by the Commission with respect to any matter considered at this hearing, he or she will need to ensure that a verbatim record of the proceeding is made. The record will include the testimony and evidence upon which the appeal is to be based.

Additional information may be obtained by writing: Education Practices Commission, 325 W. Gaines Street, Room 224, Turlington Building, Tallahassee, Florida 32399-0400.

**SPECIAL ACCOMMODATION:** Any person requiring a special impairment accommodation should contact Kathleen M. Richards, (850)245-0455, at least five (5) calendar days prior to the hearing. Persons who are hearing or speech impaired can contact the Commission using the Florida Dual Party Relay System at 711.

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The Florida **Department of Education**, Office of Independent Education and Parental Choice, announces a public workshop and hearing of the Charter School Appeal Commission to which all persons are invited.

WORKSHOP

**DATE AND TIME:** February 26, 2004, 8:00 a.m. – 12:00 Noon

HEARING

**DATES AND TIMES:** February 26, 2004, 1:00 p.m. – 5:00 p.m.; February 27, 2004, 8:30 a.m. – 5:00 p.m.

**PLACE:** Department of Education, 325 West Gaines Street, Room 1703/1707, Tallahassee, FL 32399

**GENERAL SUBJECT MATTER TO BE CONSIDERED:** Charter School Appeal Commission workshop and hearings for the denial of 2004-2005 charter school applications.

**SPECIAL ACCOMMODATIONS:** Persons with disabilities who require assistance to participate in this meeting are requested to contact the Office of Independent Education and Parental Choice, 325 West Gaines Street, Suite 522, Tallahassee, FL 32399, (850)245-0502.

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The **Foundation for Florida's Community Colleges** announces a meeting by conference call to which all persons are invited.

**DATE AND TIME:** March 4, 2004, 11:00 a.m.

**PLACE:** Dial-in number (850)488-8295 or Suncom 278-8295

**GENERAL SUBJECT MATTER TO BE CONSIDERED:** Meeting of the Foundation for Florida's Community Colleges Board Members.

**NOTE:** If you need special services to attend the meeting or need additional information, write: Ms. Sharon Jones at the Division of Community Colleges, 325 West Gaines Street, Suite 1314, Tallahassee, Florida 32399-0400.

The **Indian River Community College**, Criminl Justice Training Institute announces a public meeting for the Region XI Training Council, to which the public is invited.

DATE AND TIME: March 3, 2004, 10:00 a.m.

PLACE: Indian River Community College, Indian River Academy, 5900 Tedder Road, Fort Pierce, FL

GENERAL SUBJECT MATTER TO BE CONSIDERED: To review information gathered at the February State Commission meeting, provide update on training classes, and any other issues involving the region.

The **Department of Education**, Vocation Rehabilitation announces State Plan Public Meetings. Come share your thoughts on ways to improve Florida's Vocational Rehabilitation Program.

DATE AND TIME: February 19, 2004, 5:00 p.m. – 7:00 p.m.

PLACE: Edison Community College Campus, Building A, Room 105, 8099 College Parkway, Fort Myers, FL 33919

DATE AND TIME: February 25, 2004, 5:00 p.m. – 7:00 p.m.

PLACE: VOTRAN Daytona, 950 Big Tree Road, South Daytona, FL 32119

If you would like to send us your comments, please e-mail us: vrplan@vr.doe.state.fl.us or call 1(800)451-4327.

Please note that the following accommodations will be provided: American Sign Language Interpreters, Assisive Listening Devices, Large Print, Disk, and Braille materials.

**DEPARTMENT OF COMMUNITY AFFAIRS**

The **Department of Community Affairs** announces a meeting of the Affordable Housing Study Commission to which all interested persons are invited.

DATE AND TIME: February 18, 2004, 1:00 p.m. – 5:00 p.m.; February 19, 2004, 8:00 a.m. – 1:00 p.m. (Times are subject to change)

PLACE: The Clarion Hotel, (formerly Park Plaza Hotel) 5303 W. Kennedy Boulevard, Tampa, Florida

GENERAL SUBJECT MATTER TO BE CONSIDERED: The purpose of the meeting will be for the Commission to continue discussions on its 2003-2004 study topic: Housing the extremely low-income (>30% AMI) with a special emphasis on farmworker housing and housing in the urban core.

At these meetings, a Public Comment period will take place on Thursday, February 19, 2004, 8:00 a.m. – 8:30 a.m. Please contact Brenda Smith if you would like to make a presentation to the Commission. Due to time constraints, presentations before the Commission should be limited to no more than six minutes; however, printed support materials are welcome and can be distributed at the meeting.

Any person requiring special accommodations due to disability or physical impairment should contact Brenda Smith, (850)922-1462, at least five calendar days prior to the meeting. People who are hearing-impaired should contact Ms. Smith using the Florida Dual Party Relay System, 1(800)955-8770 (Voice) and 1(800)955-8771 (TDD).

A copy of the agenda may be obtained from: Brenda Smith, Affordable Housing Study Commission, 2555 Shumard Oak Boulevard, Tallahassee, Florida 32399-2100, (850)922-1462.

The **Florida Building Commission** announces the following meetings to which all persons are invited. The meetings will be held at:

DATE AND TIME: March 1, 2004, 9:00 a.m.

PLACE: The Rosen Plaza Hotel, 9700 International Drive, Orlando, Florida 32819, 1(800)366-9700

Meeting of the Accessibility Advisory Council to consider the following applications for waiver from the accessibility code requirements: World Jet, Inc., 6101 N. W. 10th Terrace, Fort Lauderdale; Playpen South, 23101 South Dixie Highway, Miami; Flagler Holding Group Building, 4218 N. E. 2nd Avenue, Miami; Mister Tango Dinner Show, 58-64 N. E. 7th Street, Miami; Sunset Harbor Marina, 1928 Purdy Avenue, Miami Beach; New Commercial Business, 210 Treasure Harbor Drive, Islamorada; Cadet Hotel, 1701 James Avenue, Miami Beach; Cinema World Theaters West Park at Hunter's Creek, Southwest Corner of Highway 417 and John Young Parkway, Orlando; and Mansion (A Night Club), 1235 Washington Avenue, Miami Beach.

DATE AND TIMES: March 1, 2004

8:00 a.m. Product Approval/Prototype Buildings/Manufactured Buildings POC

10:00 a.m. Meeting of the Fire Technical Advisory Committee.

1:00 p.m. Meeting of the Structural Technical Advisory Committee.

1:00 p.m. Meeting of the Code Administration Technical Advisory Committee.

1:00 p.m. Meeting of the Accessibility Advisory Committee.

3:00 p.m. Meeting of the Budget Review Committee.

4:00 p.m. Plenary Session of the Florida Building Commission to hold a Rule Development Workshop on Rule 9B-3.047, Florida Building Code Fire and Life Safety Requirements.

DATE AND TIMES: March 2, 2004

8:00 a.m. Meeting of the Plenary Session of the Florida Building Commission.

Review and approval of January 13, 2004 Meeting Minutes, review and update Commission Workplan; Chair's Discussion Issues and Recommendations.

8:40 a.m. Consideration of requests for waiver from accessibility code requirements: World Jet, Inc., 6101 N. W. 10th Terrace, Fort Lauderdale; Playpen South, 23101 South Dixie Highway, Miami; Flagler Holding Group Building, 4218

N. E. 2nd Avenue, Miami; Mister Tango Dinner Show, 58-64 N. E. 7th Street, Miami; Sunset Harbor Marina, 1928 Purdy Avenue, Miami Beach; New Commercial Business, 210 Treasure Harbor Drive, Islamorada; Cadet Hotel, 1701 James Avenue, Miami Beach; Cinema World Theaters West Park at Hunter's Creek, Southwest Corner of Highway 417 and John Young Parkway, Orlando; and Mansion (A Night Club), 1235 Washington Avenue, Miami Beach.

9:10 a.m. Legal Reports and consideration of Petitions for Declaratory Statement:

Second Hearing:

DCA03-DEC-309 by Van Gladfelter, PE, Center for Innovative Structures

First Hearing:

DCA03-DEC-326 by Gregory Harris of Capri Engineering, Inc.

DCA03-DEC-334 by Gerald L. Hill

DCA04-DEC-022 by Adolf Amrhein

DCA04-DEC-030 by Palm Beach County BCAB Building Code Advisory Board

DCA04-DEC-034 by Borjen Yeh, PE of APA

Appeals:

Case No. 03-2524 by Icyne, Inc. Vs. City of Miami Beach and Miami-Dade County

Dragomirecky Vs. Town of Ponce Inlet

9:30 a.m. Consideration of Applications for Product and Entity Approval

9:45 a.m. Consideration of Committee Reports and Recommendations: Accessibility TAC Report; Code Administration TAC Report; Fire TAC Report; Structural TAC Report; and Product Approval/Prototype Buildings/Manufactured Buildings Program Oversight Committee Report.

10:00 a.m. Reconvene, Rule Development Workshop on Rule 9B-3.047, F.A.C., Florida Building Code.

12:00 p.m. Receive public comment.

A copy of the Committee and Commission meeting agendas and other documents may be obtained by sending a request in writing: Ms. Barbara Bryant, Building Codes and Standards Office, Division of Housing and Community Development, Department of Community Affairs, 2555 Shumard Oak Boulevard, Tallahassee, Florida 32399-2100, Fax (850)414-8436, website: [www.floridabuilding.org](http://www.floridabuilding.org)

If a person decides to appeal any decision made by the Commission with respect to any matter considered at this meeting, they will need to ensure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is to be based.

Any person requiring a special accommodation at the meetings because of a disability or physical impairment should contact Ms. Barbara Bryant at the Department of Community Affairs, (850)487-1824, at least ten days before the meetings. If you are

hearing or speech impaired, please contact the Department of Community Affairs using the Florida Dual Party Relay System, 1(800)955-8770 (Voice) and 1(800)955-8771 (TDD).

## DEPARTMENT OF TRANSPORTATION

Notice is hereby given that the Florida **Department of Transportation**, District Seven, will offer an opportunity for a public hearing concerning the proposed roadway jurisdiction transfer of:

S.R. 54, from approximately one-half mile east of C.R. 587/Gunn Highway to just west of

Ogden Loop West, from the State Highway System to the Pasco County Road System.

This portion of S.R. 54 is being replaced by the new construction and alignment of S.R. 54.

All persons wishing to be heard on this subject are hereby notified to respond in writing to the individual listed below by February 24, 2004. If an interest in this hearing is expressed, the hearing will be held as follows:

DATE AND TIME: February 25, 2004, 5:00 p.m. – 6:00 p.m.

PLACE: Community Center, Odessa Neighborhood Park, 1627 Chesapeake Drive, Odessa (Pasco County), FL

GENERAL SUBJECT MATTER TO BE CONSIDERED:

This public hearing is being offered in accordance with Section 335.02 and 335.0415, Florida Statutes, to obtain public input concerning the proposed roadway jurisdiction transfer and access management classification of the new alignment of S.R. 54 in the County of Pasco. The public hearing is in compliance with Titles VI and VIII of the Civil Rights Act and Americans with Disabilities Act. Individuals who may require special accommodations at the hearing, under ADA, should contact the person named below at least seven (7) days prior to the public hearing.

CONTACT PERSON: Mr. B. C. Beaty, Florida Department of Transportation District Seven-Planning, 11201 N. McKinley Drive, Tampa, Florida 33612, (813)975-6283 or 1(800)226-7220, Ext. 7740.

The **Florida High Speed Rail Authority** announces a public meeting to which all persons are invited.

DATE AND TIME: Monday, March 1, 2004, 10:00 a.m. – conclusion

PLACE: Tallahassee City Commission Chambers, 2nd Floor, City Hall, 300 South Adams Street, Tallahassee, Florida

GENERAL SUBJECT MATTER TO BE CONSIDERED: To conduct Florida High Speed Rail Authority business.

Information may be obtained by contacting: Nazih Haddad, 605 Suwannee Street, Tallahassee, Florida 32399-0450, (850)414-4500.

Pursuant to provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this meeting is asked to advise the Authority, at least 48 hours before the meetings by contacting: Betty Sizemore, (850)414-5244

The **Florida Transportation Commission** announces a public meeting to which all persons are invited:

DATE AND TIME: March 2, 2004, 8:00 a.m. – 1:00 p.m.  
PLACE: Department of Transportation Auditorium, 605 Suwannee Street, Tallahassee, Florida

GENERAL SUBJECT MATTER TO BE CONSIDERED: Meeting of the Florida Transportation Commission.

Statewide public hearing on the Department of Transportation Tentative Work Program for fiscal years 2004/2005 through 2008/2009 at which time the Commission will hear comments offered by the public relating to compliance of the Tentative Work Program with all applicable laws and department policies. The Florida Transportation Commission is statutorily prohibited from considering individual construction projects.

Information may be obtained by contacting: Florida Transportation Commission, Room 176, M.S. 9, 605 Suwannee Street, Tallahassee, Florida 32399-0450, (850)414-4105.

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in these meetings are asked to advise the Commission at least 48 hours before the meetings by contacting Cathy Goodman, (850)414-4105.

The **Commercial Motor Vehicle Review Board** announces a public meeting to which all persons are invited.

DATE AND TIME: March 11, 2004, 8:30 a.m.  
PLACE: Department of Transportation District Four Office Auditorium, 3400 West Commercial Boulevard, Ft. Lauderdale, Florida

GENERAL SUBJECT MATTER TO BE CONSIDERED:

This is a monthly meeting of the Commercial Motor Vehicle Review Board for the purpose of reviewing penalties imposed upon any vehicle or person under the provisions of Chapter 316, Florida Statutes, relating to weights imposed on the highway by the axles and wheels of motor vehicles, to special fuel and motor fuel tax compliance, or to violations of safety regulations.

Any person aggrieved by the imposition of a civil penalty pursuant to Sections 316.3025 or 316.550, Florida Statutes, may apply to the Commercial Motor Vehicle Review Board for a modification, cancellation, or revocation of the penalty.

Anyone needing an agenda or public hearing information or special accommodations under the Americans With Disabilities Act of 1990 should write to the address given below or call Rosa Seabrooks, (850)922-4483.

Special accommodation requests under the Americans With Disabilities Act should be made at least 48 hours prior to the public meeting.

A copy of the agenda may be obtained by writing: Rosa Seabrooks, Executive Secretary, Commercial Motor Vehicle Review Board, 1815 Thomasville Road, Tallahassee, Florida 32303-5750.

The **Department of Transportation**, District 6 announces a public hearing to which all persons are invited.

DATE AND TIME: March 16, 2004, 5:00 p.m.  
PLACE: Harvey Government Center, 1200 Truman Avenue, Key West, Florida

GENERAL SUBJECT MATTER TO BE CONSIDERED: This hearing is being held to afford interested persons the opportunity to express their views concerning the location, conceptual design, social, economic, and environmental effects outlined in the Big Coppitt Key Project Development and Environmental (PD&E) Study, FM No. 250534-1-22-01, and Federal Aid Project No. TBD. The limits of the project corridor are from Rockland Drive on Rockland Key (MM 9.1) to Shark Channel Bridge (MM 11.4) in Big Coppitt Key, Monroe County, Florida.

Anyone needing project or public hearing information or special accommodations under the Americans With Disabilities Act of 1990 should write to the address given below or call (305)470-5342.

Special accommodation requests under the Americans With Disabilities Act should be made at least seven days prior to the public hearing.

A copy of the agenda may be obtained by writing: John Dovel, P.E., FDOT Project Manager, Florida Department of Transportation, District VI, 1000 N. W. 11th Avenue, Room 6103, Miami, Florida 33172.

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

Pursuant to Chapter 2003-145, Laws of Florida, all notices for the Board of Trustees of the Internal Improvement Trust Fund are published on the Internet at the Department of Environmental Protection’s home page at <http://www.dep.state.fl.us/> under the link or button titled “Official Notices.”

**STATE BOARD OF ADMINISTRATION**

NOTICE IS HEREBY GIVEN by the **State Board of Administration** of two public meetings of the Advisory Council to the Florida Hurricane Catastrophe Fund to which all persons are invited.

DATE AND TIME: March 17, 2004, 9:00 a.m. – 4:00 p.m. (EST)

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

Persons who wish to participate may call (850)488-5776 or Suncom 278-5776 on the date and at the time indicated for access to the meeting.

GENERAL SUBJECT MATTER TO BE CONSIDERED: To obtain approval to file Rules 19-8.010, F.A.C. (Reimbursement Contract), 19-8.012, F.A.C. (Ineligibility/Exemption from Fund), 19-8.013, F.A.C. (Revenue Bonds Issued Pursuant to Section 215.555(6), Florida Statutes), 19-8.029, F.A.C. (Insurer Reporting Requirements), and Rule 19-8.030, F.A.C. (Insurer Responsibilities) for adoption, to discuss the 2004 Ratemaking Formula Report and the Premium Rates and to vote on the filing of a Notice of Proposed Rulemaking as to Rule 19-8.028, F.A.C. (Reimbursement Premium Formula), and to engage in other general business of the Council.

DATE AND TIME: March 23, 2004, 2:00 p.m. – 4:00 p.m. (EST)

PLACE: This will be a teleconference meeting. The number to call to participate is (850)488-5776 or Suncom 278-5776

GENERAL SUBJECT MATTER TO BE CONSIDERED: This meeting will be held only if it is determined to be necessary during the meeting on March 17, 2004. The purpose will be to obtain approval to file Rule 19-8.028, F.A.C. (Reimbursement Premium Formula) for Notice of Proposed Rulemaking, to discuss the 2004 Ratemaking Formula Report and the Premium Rates Report. In addition, other general business of the Council may be addressed.

Anyone wishing a copy of the agenda for either meeting should contact: Patti Elsbernd, Florida Hurricane Catastrophe Fund, P. O. Drawer 13300, Tallahassee, FL 32317-3300.

In compliance with the Americans with Disabilities Act, any person needing special accommodation to attend the meeting is requested to contact Patti Elsbernd by mail, at the address given immediately above, or by telephone at (850)413-1346, five days prior to the meeting so that appropriate arrangements can be made.

NOTICE IS HEREBY GIVEN by the Florida Hurricane Catastrophe Fund, which is administered by the **State Board of Administration**, of a meeting of the State Board of Administration to which all persons are invited.

DATE AND TIME: March 30, 2004, 9:00 a.m. (EST) – conclusion of the meeting

PLACE: Cabinet Meeting Room, Lower Level, The Capitol, Tallahassee, Florida

GENERAL SUBJECT MATTER TO BE CONSIDERED: To provide permission for the Florida Hurricane Catastrophe Fund to file Rules 19-8.010, 19-8.012, 19-8.013, 19-8.029, and 19-8.030, F.A.C., along with the forms incorporated therein, for adoption. In addition, permission will be sought to file a Notice of Rule Hearing with respect to Rule 19-8.028, F.A.C., and to engage in other general business of the Board.

Anyone wishing a copy of any of the Rules or Forms should contact: Tracy Allen, Florida Hurricane Catastrophe Fund, P. O. Drawer 13300, Tallahassee, FL 32317-3300, (850)413-1341.

#### DEPARTMENT OF CITRUS

The **Department of Citrus** announces a public meeting of the Florida Citrus Commission to which all persons are invited.

DATE AND TIME: Wednesday, February 18, 2004, 9:00 a.m.

PLACE: The Turner Agri-Civic Center, 2250 NE Roan St., Arcadia, FL 34266

GENERAL SUBJECT MATTER TO BE CONSIDERED: The Commission will convene for the purposes of standing committee meetings and for the regular monthly meeting of the Florida Citrus Commission. The Commission will address issues pertaining to budget items and revisions, contracts, advertising programs, balance scorecards, licensing, rulemaking, and other matters that are addressed during monthly meetings of the Commission. The Commission may also go into closed session pursuant to the provisions of Section 286.011(8), F.S., to address issues related to the Tampa Juice, et. al. & Graves Brothers, et. al. vs. FDOC and The Lakeland Ledger Publishing Company, Publisher of The Ledger vs. FDOC. The parties attending the closed session will be John R. Alexander, Patrick Carlton, Tristan G. Chapman, W. Cody Estes, Sr., Harry H. Falk, Christopher W. Gargano, William E. Kemper, Anina C. McSweeney, W. Lindsay Raley, Jr., Daniel R. Richey, Ray Smith, Andrew R. Taylor, Bob Crawford, Hank B. Campbell, Esq., Monterey Campbell, Esq. and Kenneth O. Keck, Esq.

In accordance with the Americans with Disabilities Act, any person requiring special accommodations to participate in this meeting is asked to advise the Department at least 48 hours before the meeting by contacting Mr. Art Johnson at the above address or by telephone, (863)499-2510.

#### FLORIDA PAROLE COMMISSION

The **Florida Parole Commission** announces a public meeting to which all persons are invited.

DATE AND TIME: Wednesday, February 25, 2004, 9:00 a.m.

PLACE: Florida Parole Commission, 2601 Blairstone Road, Bldg. C., Third Floor, Tallahassee, Florida

GENERAL SUBJECT MATTER TO BE CONSIDERED: Regularly Scheduled Meeting for all Parole, Conditional Release, Conditional Medical Release, Addiction Recovery and Control Release Matters.

Any person who decides to appeal a decision of the Florida Parole Commission with respect to a matter considered at this meeting may need to ensure that a verbatim record of the proceedings is made, Chapter 80-150, Laws of Florida (1980).

A copy of the Agenda may be obtained by writing: Florida Parole Commission, 2601 Blairstone Road, Building C, Tallahassee, Florida 32399-2450.

In accordance with the Americans with Disabilities Act, persons needing a special accommodation to participate in this proceeding should contact the agency sending the notice not later than five working days prior to the proceeding at the address given on the notice. Telephone: (850)488-3417.

**PUBLIC SERVICE COMMISSION**

The Florida **Public Service Commission** announces a hearing to be held in the following docket, to which all interested persons are invited.

Docket No. 030852-TP – Implementation of requirements arising from Federal Communications Commission’s triennial UNE review: Location-Specific Review for DS1, DS3 and Dark Fiber Loops, and Route-Specific Review for DS1, DS3 and Dark Fiber Transport.

DATES AND TIME: March 3-5, 2004, 9:30 a.m.

PLACE: Commission Hearing Room 148, The Betty Easley Conference Center, 4075 Esplanade Way, Tallahassee, Florida

GENERAL SUBJECT MATTER TO BE CONSIDERED: To permit parties to present testimony and exhibits relative to the implementation of requirements arising from Federal Communications Commission’s triennial UNE review: Location-Specific Review for DS1, DS3 and Dark Fiber Loops, and Route-Specific Review for DS1, DS3 and Dark Fiber Transport, and for such other purposes as the Commission may deem appropriate. All witnesses shall be subject to cross-examination at the conclusion of their testimony on the issues identified by the parties at the prehearing conference held on February 9, 2004. The proceedings will be governed by the provisions of Chapter 120, F.S., and Chapter 25-28, F.A.C.

Any person requiring some accommodation at this hearing because of a physical impairment should call the Division of the Commission Clerk and Administrative Services, (850)413-6770, at least 48 hours prior to the hearing. Any person who is hearing or speech impaired should contact the Commission by using the Florida Relay Service, 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice).

**REGIONAL PLANNING COUNCILS**

The **Charlotte Harbor National Estuary Program** announces a public meeting to which all persons are invited:

DATE AND TIME: February 25, 2004, 9:30 a.m.

PLACE: Punta Gorda, Charlotte County Airport, Building 109, 28000 Airport Road, Punta Gorda, FL

GENERAL SUBJECT MATTER TO BE CONSIDERED: Regular meeting of the Legislative Subcommittee of the Charlotte Harbor NEP Policy Committee.

A copy of the proposed agenda may be obtained by writing: Ms. Liz Donley, Charlotte Harbor NEP, 4980 Bayline Drive, 4th Floor, North Fort Myers, FL 33918-3455, e-mail: ldonley@swfrpc.org.

Any person requiring special accommodation due to disability or physical impairment should contact Ms. Liz Donley, (239)995-1777, Ext. 234, at least five calendar days prior to the meeting. Persons who are hearing impaired should contact Ms. Donley using the Florida Dual Party Relay System, 1(800)955-8770 (Voice) and 1(800)955-8771 (TDD).

The **North Central Florida Regional Planning Council** announces the following meetings to which all persons are invited.

MEETING: Executive Committee

DATE AND TIME: February 26, 2004, 6:00 p.m.

GENERAL SUBJECT MATTER TO BE CONSIDERED: To conduct the regular business of the Executive Committee.

MEETING: Clearinghouse Committee

DATE AND TIME: February 26, 2004, 6:00 p.m.

GENERAL SUBJECT MATTER TO BE CONSIDERED: To conduct the regular business of the Clearinghouse Committee.

MEETING: North Central Florida Regional Planning Council

DATE AND TIME: February 26, 2004, 7:30 p.m.

GENERAL SUBJECT MATTER TO BE CONSIDERED: To conduct the regular business of the North Central Florida Regional Planning Council.

PLACE: Holiday Inn Restaurant, I-75 and U.S. 90, Lake City, Florida

Any person deciding to appeal decisions of the Council or its committees with respect to any matter considered at the meetings, may need to make a verbatim record of the proceedings.

A copy of any of these agendas may be obtained by email: ncfrcpc@ncfrcpc.org or writing: NCFRPC, 2009 N. W. 67th Place, Suite A, Gainesville, Florida 32653.

Persons with disabilities who need assistance may contact us, (352)955-2200, at least two business days in advance to make appropriate arrangements.

The **Tampa Bay Regional Planning Council** announces the following meetings to which all persons are invited. Please note new address: 4000 Gateway Centre Blvd., Suite 100, Pinellas Park, FL 33782. (Please call to confirm date, time and location)

MEETING: Executive/Budget Committee

DATE AND TIME: Monday, March 8, 2004, 9:00 a.m.

GENERAL SUBJECT MATTER TO BE CONSIDERED: To conduct the regular business of the Executive/Budget Committee.

MEETING: Tampa Bay Regional Planning Council

DATE AND TIME: Monday, March 8, 2004, 10:00 a.m.



GENERAL SUBJECT MATTER TO BE CONSIDERED: To conduct the regular business of the Tampa Bay Regional Planning Council.

MEETING: TBRPC Legislative Committee

DATE AND TIME: Monday, March 8, 2004, 11:30 a.m.

GENERAL SUBJECT MATTER TO BE CONSIDERED: To conduct the regular business of the TBRPC Legislative Committee.

MEETING: Agency On Bay Management

DATE AND TIME: Thursday, March 11, 2004, 9:00 a.m.

GENERAL SUBJECT MATTER TO BE CONSIDERED: To conduct the regular business of the Agency On Bay Management.

MEETING: Clearinghouse Review Committee

DATE AND TIME: Monday, March 22, 2004, 9:30 a.m.

GENERAL SUBJECT MATTER TO BE CONSIDERED: To conduct the regular business of the Clearinghouse Review Committee

Please note that if a person decides to appeal any decision made by Council with respect to any matter considered at the above cited meeting or hearing, he will need to ensure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is based.

The Region IX, **Local Emergency Planning Committee** (LEPC) announces a public meeting to which all persons are invited:

DATE AND TIME: February 26, 2004, 9:30 a.m.

PLACE: Southwest Florida Regional Planning Council, 4980 Bayline Drive, 4th Floor, North Fort Myers, FL 33917

GENERAL SUBJECT MATTER TO BE CONSIDERED: To discuss and implement provisions of the Emergency Planning and Community Right to Know Act.

A copy of the agenda may be obtained by contacting: Executive Director David Y. Burr, Southwest Florida Regional Planning Council, Post Office Box 3455, North Fort Myers, FL 33918-3455.

The **South Florida Regional Planning Council** announces a public meeting to which all persons are invited.

DATE AND TIME: Monday, March 1, 2004, 10:30 a.m.

PLACE: South Florida Regional Planning Council, 3440 Hollywood Boulevard, Suite 140, Hollywood, FL 33021

GENERAL SUBJECT MATTER TO BE CONSIDERED: Any Development Order received prior to the meeting; Any proposed Local Government Comprehensive Plan received prior to the meeting; Any adopted Local Government Comprehensive Plan received prior to the meeting; Any proposed Local Government Comprehensive Plan Amendment received prior to the meeting; Adopted Local Government Comprehensive Plan Amendment for Coral Gables; Any adopted Local Government Comprehensive Plan Amendment

received prior to the meeting; Meeting on monthly Council business; Executive Committee meeting at 10:00 a.m. at the above location.

A copy of the agenda may be obtained by writing: South Florida Regional Planning Council, 3440 Hollywood Boulevard, Suite #140, Hollywood, Florida 33021.

Anyone deciding to appeal any decision made by the board with respect to any matter considered at this meeting, will need to ensure that a verbatim record of the proceedings is made, including the testimony and evidence upon which the appeal is to be based.

Council related committees may meet periodically before (9:00 a.m.) and following the regularly scheduled Council meetings. Any party desirous of ascertaining schedules of the sub-committees should call the Council Offices, (954)985-4416 (Broward).

If you are hearing or speech impaired, please contact the South Florida Regional Planning Council, (954)967-4152, Ext. 40 (TDD), if you require additional information regarding the above meeting. If you require special accommodations because of a disability or physical impairment, please contact the Council, (954)985-4416, at least five calendar days prior to the meeting.

The **Apalachee Regional Planning Council** announces a public meeting to which all persons are invited. In addition to its regular business, the agenda will include the review of any Local Government Plan Amendment(s) received in a timely manner.

PLACE: Gulf County Board of Commissioners Meeting Room, 1000 Cecil G. Costin, Sr. Blvd., Port St. Joe, Florida

DATE: Thursday, February 26, 2004, 10:30 a.m. Eastern Time, 9:30 a.m. Central Time

GENERAL SUBJECT MATTER TO BE CONSIDERED: To hold the regular monthly meeting of the Apalachee Regional Planning Council's Board of Directors. The Council will be reviewing the WindMark Development of Regional Impact Application for Development Approval and Development Order. After lunch the meeting will re-convene at the project site for a short tour. Public comments at the meeting will be held to 3 minutes per individual speaker.

An agenda may be obtained by writing: Apalachee Regional Planning Council, 20776 Central Avenue East, Suite 1, Blountstown, FL 32424, (850)674-4571.

If special accommodations at the meeting are required because of a disability or impairment, please contact Council Offices, (850)674-4571 prior to the meeting.

If any person desires to appeal any decision with respect to any matter considered at the above-cited meeting, such person will need a record of the proceedings. For such purpose, he/she will

need to ensure that a verbatim record of the proceeding is made to include the testimony and evidence upon which the appeal is to be based.

**DEPARTMENT OF CORRECTIONS**

The **State Council for Interstate Compact of Adult Offenders** announces its next meeting to which all interested persons are invited.

DATE AND TIME: Thursday, April 1, 2004, 10:00 a.m. – 2:00 p.m.

PLACE: Community Corrections, Region II Office, 710 East Colonial Drive, Suite 206, Orlando, Florida

This is an open meeting and the public is welcome to attend. If you should have any questions, or need information, please contact: Hieteenhia Hayes, (850)488-5561 or Barry Q. Groves, (850)487-0558 or via e-mail: groves.barry@mail.dc.state.us.

**WATER MANAGEMENT DISTRICTS**

The **Northwest Florida Water Management District** announces public meetings to which all persons are invited:

DATE AND TIME: February 26, 2004, 11:00 a.m. (EST)

GENERAL SUBJECT MATTER TO BE CONSIDERED: Insurance Committee – to discuss employee health provisions.

DATE AND TIME: February 26, 2004, 11:30 a.m. (EST)

GENERAL SUBJECT MATTER TO BE CONSIDERED: District Lands Committee meeting – to discuss land management and acquisition matters.

DATE AND TIME: February 26, 2004, 1:00 p.m. (EST)

GENERAL SUBJECT MATTER TO BE CONSIDERED: Regular Monthly Governing Board meeting – to consider District business.

DATE AND TIME: February 26, 2004, 1:15 p.m. (EST)

GENERAL SUBJECT MATTER TO BE CONSIDERED: Public Hearing for the Consideration of Regulatory Matters.

PLACE: District Headquarters, 10 miles west of Tallahassee on U.S. Highway 90, Tallahassee, FL

A copy of the agendas may be obtained by contacting: Carolyn Wise, NWFWM, 81 Water Management Drive, Havana, Florida 32333, (850)539-5999 (also available through the Internet at [www.state.fl.us/nwfwmd](http://www.state.fl.us/nwfwmd)).

If any person decides to appeal any decision with respect to any matter considered at the above-cited meetings, such person may need to ensure that a verbatim record of the proceedings is made to include the testimony and evidence upon which the appeal is to be based. Persons with disabilities or handicaps who need assistance or reasonable accommodation in order to participate in these meetings should contact Larry Wright at the District at least 72 hours in advance of these meetings to make appropriate arrangements.

The **Southwest Florida Water Management District** (SWFWMD) announces the following public meetings to which all interested persons are invited:

GOVERNING BOARD COMMITTEE MEETINGS, BOARD MEETING AND PUBLIC HEARING

DATE AND TIME: Tuesday, February 24, 2004, 9:00 a.m.

PLACE: SWFWMD, District Headquarters, 2379 Broad Street, Brooksville, FL

GENERAL SUBJECT MATTER TO BE CONSIDERED: Conduct of Committee meetings, Board meeting and public hearing.

GOVERNING BOARD COMMITTEE MEETINGS, BOARD MEETING AND PUBLIC HEARING (Items not completed at Tuesday’s meeting may be carried over to Wednesday’s meeting. If all business is concluded at Tuesday’s meeting, there will be no meeting on Wednesday.)

DATE AND TIME: Wednesday, February 25, 2004, 9:00 a.m.

PLACE: SWFWMD, District Headquarters, 2379 Broad Street, Brooksville, FL

GENERAL SUBJECT MATTER TO BE CONSIDERED: Conduct of meeting and public hearing.

These are public meetings and agendas are available by contacting: Southwest Florida Water Management District, 2379 Broad Street, Brooksville, FL.

The District does not discriminate based on disability. Anyone requiring reasonable accommodation under the ADA should contact 1(800)423-1476 (Florida only), Extension 4609, TDD only 1(800)231-6103 (Florida only), Fax (352)754-6874.

The **South Florida Water Management District** announces a public meeting to which all interested parties are invited:

DATE AND TIME: 10:00 a.m., February 17, 2004

PLACE: South Florida Water Management, B1 Auditorium 3301 Gun Club Road, West Palm Beach, FL 33406

GENERAL SUBJECT MATTER TO BE CONSIDERED: Water Resources Advisory Commission Meeting – Issues Workshop Meeting on CERP Program Requirements.

A copy of the agenda may be obtained at the (1) District Website (<http://www.sfwmd.gov/agenda.html>) or (2) by writing: South Florida Water Management District, Mail Stop 6115, P. O. Box 24680, West Palm Beach, FL 33416-4680.

Persons with disabilities who need assistance may contact the District Clerk, (561)682-6371, at least two business days in advance of the meeting to make appropriate arrangements.

Those who want more information, please contact: Paula Moree, District Headquarters, 3301 Gun Club Road, Mail Stop Code 6115 West Palm Beach, FL 33406, (561)682-6447.

The **South Florida Water Management District** announces a public meeting to which all interested parties are invited:

DATE AND TIME: February 23, 2004, 10:00 a.m.

PLACE: SFWMD, B1 Auditorium, 3301 Gun Club Road, West Palm Beach, Florida

GENERAL SUBJECT MATTER TO BE CONSIDERED: Water Resources Advisory Commission Meeting – Issues Workshop Meeting on Alternative Water Supply.

A copy of the agenda may be obtained at the (1) District Website (<http://www.sfwmd.gov/agenda.html>) or (2) by writing: South Florida Water Management District, Mail Stop 6115, P. O. Box 24680, West Palm Beach, FL 33416-4680.

Persons with disabilities who need assistance may contact the District Clerk, (561)682-6371, at least two business days in advance of the meeting to make appropriate arrangements.

Those who want more information, please contact: Paula Moree, (561)682-6447, District Headquarters, 3301 Gun Club Road, Mail Stop Code 6115, West Palm Beach, FL 33406.

### REGIONAL UTILITY AUTHORITIES

The **Tampa Bay Water** announces the following Regular Board Meeting to which all persons are invited:

DATE AND TIME: Monday, February 23, 2004, 9:00 a.m.

PLACE: Tampa Bay Water, 2535 Landmark Drive, Suite 211-A, Clearwater, Florida 33761

GENERAL SUBJECT MATTER TO BE CONSIDERED: Regular Board Meeting.

If a person decides to appeal any decision made by the Board with respect to any matter considered at this meeting, he will need a record of the proceedings, and for such purposes he may need to ensure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is to be based.

A copy of the regular meeting agenda may be obtained by writing to Tampa Bay Water or can be accessed on the Web: [www.tampabaywater.org](http://www.tampabaywater.org)

If an accommodation is needed for a disability, in order to participate in this activity, please notify Holly Wells, (727)796-2355, at least 3 business days prior to the meeting.

### DEPARTMENT OF ELDER AFFAIRS

Notice is hereby given that the **Department of Elder Affairs** is requesting input from stakeholders on development of the State Senior Employment Services Coordination Plan. The plan will be prepared in accordance with Section 503 of the Older Americans Act (OAA) Amendments of 2000, which requires the Governor of each state to submit annually to the Secretary of the U.S. Department of Labor a State Senior Employment Services Coordination Plan. The purpose of the

Plan is to improve coordination among organizations that can be engaged in older worker activities, and to enhance employment services for older workers.

Advice and recommendations must be obtained from various organizations, including Area Agencies on Aging, local workforce investment boards, individuals representing public and private nonprofit agencies, Senior Community Service Employment Program National sponsors, individuals representing social service organizations providing services to older individuals, grantees under Title III of the OAA, affected communities, underserved older individuals, community-based organizations serving the needs of older individuals, business organizations, and labor organizations.

The first stakeholders meeting will be held in Tallahassee:

DATE AND TIME: February 26, 2004, 10:00 a.m. – 1:00 p.m.

PLACE: Department of Elder Affairs, 4040 Esplanade Way, Tallahassee, FL (please register for the meeting by contacting the number below)

Any persons requiring special accommodations to attend the meeting should contact the Department at least two days prior to the meeting.

The 2002 State Plan Update will be available on the Department of Elder Affairs web site: <http://elderaffairs.state.fl.us/doea/index.html>, for three weeks beginning February 13, 2004. Please review the plan and e-mail or fax your initial comments to JoAnn Williams, SCSEP State Director, by February 24, 2004. The Plan must be submitted to the U.S. Department of Labor by April 1, 2004.

The **Northwest Florida Area Agency on Aging, Inc.**, Board of Directors announces its monthly meetings for the first 6 months and its bi-monthly meetings for the last six months of the year 2004. The public is invited to attend.

DATES AND TIME: February 11, 2004; March 10, 2004; April 14, 2004; May 12, 2004; June 9, 2004; August 11, 2004; October 13, 2004; December 8, 2004, 6:00 p.m.

PLACE: Meetings for February – October: Plaza Building Conference Room, 1st Floor, 3300 N. Pace Blvd., Pensacola, FL 32505; December meeting: Ramada Beach Resort, 1500 Miracle Strip Parkway, S. E., Ft. Walton Beach, FL

GENERAL SUBJECT MATTER TO BE CONSIDERED: To discuss policy/activities/service provision/funding and/or other information pertinent to the activities of the agency.

A copy of the agenda may be obtained by writing: Dottie Peoples, Northwest Florida Area Agency on Aging, Inc., 3300 N. Pace Blvd., Suite 200, Pensacola, FL 32505.

**AGENCY FOR HEALTH CARE ADMINISTRATION**

The **Agency for Health Care Administration** announces a meeting of the Pharmaceutical and Therapeutics Committee to which all interested parties are invited.

DATE AND TIME: Wednesday, March 3, 2004, 10:30 a.m. – 3:00 p.m.

PLACE: Marriott Hotel, Tampa International Airport, Tampa, FL

GENERAL SUBJECT MATTER TO BE CONSIDERED: Make recommendations for drugs to be included on the Preferred Drug List.

Any attendee requiring special accommodation because of a disability of physical impairment should contact the Marriott, (813)879-5151, at least five days prior to the meeting. Members of the public who wish to testify at this meeting must call Julie Davis, (850)487-4441, by February 25, 2004. The number of speakers will be limited and will be accommodated in order of notification to Ms. Davis. The procedures for speakers to follow are available on the Agency's website: [www.fdhc.state.fl.us](http://www.fdhc.state.fl.us).

The **Agency for Health Care Administration** announces a public meeting of the task force for the regular Disproportionate Share Program to which all persons are invited.

DATE AND TIME: February 20, 2004, 9:30 a.m. – 4:30 p.m.

PLACE: Agency for Health Care Administration, 2727 Mahan Drive, Building 3, Conference Room D, Tallahassee, FL 32308 (For those individuals unable to attend in person, the following phone number has been reserved for this meeting so you may participate by telephone: (850)922-2904 or Suncom 292-2904)

GENERAL SUBJECT MATTER TO BE CONSIDERED: In accordance with Senate Bill 2-A, General Appropriations Act for FY 2003-04, Specific Appropriation 150, The Medicaid Disproportionate Share Task Force created in Specific Appropriation 196 of the FY 2000-01 General Appropriations Act, has been authorized to continue to convene in FY 2003-04 for the purpose of monitoring the implementation of enhanced Medicaid funding through the Special Medicaid Payment program. The task force will review the federal status of the upper payment limit (UPL) funding option and recommend how this option may be further used to promote local primary care networks to uninsured citizens in the state, to increase the accessibility of trauma centers to Floridians and to ensure the financial viability of the state's graduate medical education programs and other health care policies determined by the task force to be state health care priorities.

The agenda has not been set. Contact Edwin Stephens, (850)413-8067 or Suncom 294-8067, with any questions or to obtain an agenda when it is set.

**DEPARTMENT OF MANAGEMENT SERVICES**

The **Correctional Privatization Commission** announces a conference call meeting to which all persons are invited.

DATE AND TIME: February 13, 2004, 9:00 a.m.

PLACE: Conference Call Number (850)922-2904, Suncom 292-2904

GENERAL SUBJECT MATTER TO BE CONSIDERED: Discussion of the progress of the expansion of additional beds at the Lake City and South Bay Correctional Facilities.

Any person who decides to appeal a decision of the Correctional Privatization Commission with respect to a matter considered at this meeting may need to ensure that a verbatim record of the proceedings is made Section 286.0105, Florida Statutes.

A copy of the Agenda may be obtained by writing: Correctional Privatization Commission, Office of the Executive Director, 4050 Esplanade Way/Pepper Building, Suite 680, Tallahassee, Florida 32399-0950.

Any person requiring accommodation at this hearing because of a physical impairment should call the Correctional Privatization Commission, Office of the Executive Director, (850)921-4034, at least five (5) calendar days prior to the meeting.

If you are hearing or speech impaired, please contact the Correctional Privatization Commission, Office of the Executive Director, by using the Florida Relay Service, 1(800)955-8771 (TDD).

The **Correctional Privatization Commission** announces a workshop to which all persons are invited.

DATE AND TIME: Friday, February 27, 2004, 9:00 a.m. – 12:00 Noon

PLACE: 117 Knott Building, Tallahassee, Florida 32399

GENERAL SUBJECT MATTER TO BE CONSIDERED: A workshop meeting to discuss Commission business relating to the monitor reports and construction of additional beds.

Any person who decides to appeal a decision of the Correctional Privatization Commission with respect to a matter considered at this meeting may need to ensure that a verbatim record of the proceedings is made. Section 286.0105, Florida Statutes.

A copy of the Agenda may be obtained by writing: Correctional Privatization Commission, Office of the Executive Director, 4050 Esplanade Way/Pepper Building, Suite 680, Tallahassee, Florida 32399-0950.

Any person requiring some accommodation at this hearing because of a physical impairment should call the Correctional Privatization Commission, Office of the Executive Director, (850)921-4034, at least five (5) calendar days prior to the meeting.

If you are hearing or speech impaired, please contact the Correctional Privatization Commission, Office of the Executive Director, by using the Florida Relay Service, 1(800)955-8771 (TDD).

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#### DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

The **Florida Mobile Home Relocation Corporation** announces a meeting of its Board of Directors to consider mobile home applications for compensation and relocation due to eviction as a result of land use change.

DATE AND TIME: Thursday, February 26, 2004, 11:30 a.m.

PLACE: Shady Lane Oaks, 15777 Bolesta Rd., Clearwater, FL 33760

GENERAL SUBJECT MATTER TO BE CONSIDERED: Official business of the Florida Mobile Home Relocation Corporation. Review of mobile home owner applications for compensation for relocation and/or abandonment due to change in the use of the land, and such other business as may come before the board. A schedule of the next meeting will be determined.

Additional information can be obtained by contacting: Connie Prince, Executive Director, FMHRC, P. O. Box 14125, Tallahassee, FL 32317-4125, 1(888)862-7010.

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The Florida **Board of Auctioneers** announces the following general business meeting to which all persons are invited.

DATE AND TIME: Tuesday, March 9, 2004, 10:00 a.m. (EST)

PLACE: Via telephone conference – To connect, dial (850)921-2470 or Suncom 291-2470

GENERAL SUBJECT MATTER TO BE CONSIDERED: To conduct general business of the Board.

A copy of the agenda may be obtained by writing: The Board of Auctioneers, 1940 North Monroe Street, Tallahassee, Florida 32399 or by calling (850)922-6096.

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this meeting is asked to advise the agency at least forty-eight (48) hours before the meeting by contacting (850)922-6096. If you are hearing and speech impaired, please contact the agency by calling 1(800)955-8771 (TDD).

If any person decides to appeal any decision made by the Board with respect to any matter considered at this meeting they will need a record of the proceedings, and for such purpose they may need to ensure that a verbatim record of the proceedings is made, which record will include the testimony and evidence upon which the appeal is to be based.

The Probable Cause Panel of the **Construction Industry Licensing Board** announces a meeting.

DATE AND TIME: February 24, 2004, 9:00 a.m. and 10:00 a.m. or soon thereafter

PLACE: Dept. of Business and Professional Regulation, 1940 North Monroe Street, Tallahassee, Florida 32309, (850)488-0062

GENERAL SUBJECT MATTER TO BE CONSIDERED: To review complaints in which a determination of the existence of probable cause has already been made.

A copy of the public portion of the agenda may be obtained by writing: Patrick Creehan, Chief Construction Attorney, Department of Business and Professional Regulation, Office of the General Counsel, 1940 N. Monroe Street, Suite 60, Tallahassee, Florida 32399-2202, (850)488-0062.

NOTE: In accordance with the Americans with Disabilities Act, persons needing a special accommodation to participate in this proceeding should contact the Construction Prosecution Section no later than seven (7) days prior to the proceeding or meeting at which such special accommodation is required. The Construction Prosecution Section may be contacted at the address and phone number listed above.

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The **Board of Professional Surveyors and Mappers** announces a meeting of the Board to which all persons are invited.

DATE AND TIME: February 20, 2004, 10:00 a.m. or soon thereafter

PLACE: The meeting will be conducted by telephone conference call, (850)488-2854 or Suncom 278-2854

GENERAL SUBJECT MATTER TO BE CONSIDERED: General meeting of the Board to conduct regular Board business.

A copy of the agenda may be obtained by writing: Board of Professional Surveyors and Mappers, 1940 North Monroe Street, Tallahassee, Florida, or by calling John Knap, (850)487-1395.

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this meeting is asked to advise the agency at least forty-eight (48) hours before the meeting by contacting: John Knap, (850)487-1395. If you are hearing or speech impaired, please contact the agency by calling 1(800)955-8771 (TDD).

Any person who decides to appeal any decision made by the Board with respect to any matter considered at this meeting, will need a record of the proceedings, which record shall include all testimony and evidence upon which the appeal is based; and, for such purpose may need to ensure that a verbatim record of the proceedings is made.

The Florida **Board of Veterinary Medicine** announces the following meeting to which all parties are invited to attend.

DATE AND TIME: March 2, 2004, 8:00 a.m.

GENERAL SUBJECT MATTER TO BE CONSIDERED: General Business meeting.

PLACE: Embassy Suites Hotel, 1100 S. E. 17th Street, Ft. Lauderdale, FL 33316,(954)527-2700

To obtain a copy of the agenda, further information, or submit written or other physical evidence, contact in writing: Board of Veterinary Medicine, 1940 N. Monroe St., Tallahassee, Florida 32399.

If a person decides to appeal any decision made by the Board with respect to any matter considered at this meeting or hearing, he/she will need a record of the proceedings, and for such purpose he/she may need to ensure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is to be based.

Any person requiring a special accommodation at this meeting because of a disability or physical impairment should contact the Board office, (850)922-7154, at least five calendar days prior to the meeting. If you are hearing or speech impaired, please contact the Board office using the Florida Dual Party Relay System, 1(800)955-8770 (Voice) and 1(800)955-8771 (TDD).

The **Florida Real Estate Commission** (FREC) announces a public meeting to which all persons are invited.

DATES AND TIMES: Tuesday, February 17, 2004, 8:30 a.m.; reconvening Wednesday, February 18, 2004, 8:30 a.m.

PLACE: Division of Real Estate, Conference Room N901, North Tower, 400 West Robinson Street, Orlando, Florida 32801

GENERAL SUBJECT MATTER TO BE CONSIDERED: Official business of Commission – among topics included, but not limited to, are proposed legislation affecting Chapter 475, Part I, F.S., rule development workshops, Florida Administrative Code 61J2 rule amendments, budget discussions, escrow disbursement requests, recovery fund claims, education issues, petitions for declaratory statement, petitions for rule variance/waiver, and disciplinary actions.

If a person decides to appeal a decision made by the Commission, with respect to any matter considered at this meeting or hearing, a record of the proceedings for such purpose, upon which the appeal is based, may be required.

A copy of the agenda may be obtained by writing: Deputy Clerk, Florida Real Estate Commission, 400 W. Robinson Street, Suite N801, Orlando, Florida 32801-1772.

Any person requiring a special accommodation at this meeting because of a disability or physical impairment should contact the Department of Business and Professional Regulation, (407)245-0800, at least five (5) calendar days prior to the

meeting. If you are hearing or speech impaired, please call the Division of Real Estate using the Florida Dual Party Relay System, 1(800)955-8770 (Voice) and 1(800)955-8771 (TDD).

The Probable Cause Panel of the Florida **Real Estate Commission** announces a meeting to which all interested persons are invited.

DATE AND TIME: February 18, 2004, 2:00 p.m. or the soonest thereafter (Portions of the probable cause proceedings are not open to the public)

PLACE: Zora Neale Hurston Building, North Tower, Suite 901N, 400 West Robinson Street, Orlando, Florida 32801

Any person who desires a special accommodation at this meeting because of a disability or physical impairment should contact the Division of Real Estate, (407)245-0800 (between the hours of 8:30 a.m. – 4:00 p.m.), at least five calendar days prior to the meeting. If you are hearing or speech impaired, please call the Real Estate Division using the Florida Dual Party Relay System, 1(800)955-8770 (Voice) and 1(800)955-8771 (TDD).

#### DEPARTMENT OF ENVIRONMENTAL PROTECTION

Pursuant to Chapter 2003-145, Laws of Florida, all notices for the Department of Environmental Protection are published on the Internet at the Department of Environmental Protection's home page at <http://www.dep.state.fl.us/> under the link or button titled "Official Notices."

#### DEPARTMENT OF HEALTH

The **Board of Chiropractic Medicine** will hold a duly noticed meeting and telephone conference call to which all persons are invited to attend.

DATES AND TIMES: Friday, February 27, 2004, 8:30 a.m.; continuing Saturday, February 28, 2004, 8:30 a.m., if necessary

PLACE: Double Tree Galleria, 2670 E. Sunrise Boulevard, Ft. Lauderdale, FL 33304, (954)565-3800

GENERAL SUBJECT MATTER TO BE CONSIDERED: General Board Business.

Any person requiring special accommodations at this meeting because of a disability or physical impairment should contact the Board, (850)245-4355, at least 48 hours prior to the meeting. If you are hearing or speech impaired, please contact the Board office using the Dual Party Relay System, 1(800)955-8770 (Voice), 1(800)955-8771 (TDD).

If any person decides to appeal any decision made by the Board with respect to any matter considered at this meeting or hearing, he/she will need to ensure that a verbatim record of the proceeding is made, which record includes the testimony and evidence from which the appeal is to be issued.

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A copy of the agenda item may be obtained by writing: Joe Baker, Jr., Executive Director, Board of Chiropractic Medicine, 4052 Bald Cypress Way, Bin C07, Tallahassee, FL 32399-3257.

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**The Department of Health, Board of Clinical Social Work, Marriage and Family Therapy and Mental Health Counseling** announces a telephone conference call in which reconsiderations will be heard.

DATE AND TIME: February 26, 2004, 3:00 a.m. – 6:00 p.m.

PLACE: Call (850)245-4474 to inquire about call-in number

GENERAL SUBJECT MATTER TO BE CONSIDERED: Probable Cause Panel Meeting.

A copy of the agenda may be obtained by writing: Sue Foster, Executive Director, Department of Health, Board of Clinical Social Work, Marriage and Family Therapy and Mental Health Counseling, 4052 Bald Cypress Way, Bin C08, Tallahassee, FL 32399-3258.

If a person decides to appeal any decision made by the Board with respect to any matter considered at this meeting, he/she will need to ensure that a verbatim record of the proceeding is made, which record includes the testimony and evidence upon which the appeal is to be made.

Those who are hearing or speech impaired, using TDD equipment, can call the Florida Dual Party Relay System, 1(800)955-8770 (Voice) and 1(800)955-8771 (TDD).

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**The Department of Health, Board of Dentistry** announces a meeting of the Anesthesia Committee to be held via telephone conference call. All interested parties are invited to participate in the telephone conference call, which is open to the public.

DATE AND TIME: February 20, 2004, 12:00 Noon

PLACE: Call (850)410-0967 to obtain the phone number

GENERAL SUBJECT MATTER TO BE CONSIDERED: General Business Concerning Anesthesia Committee.

A copy of the agenda may be obtained by writing: Sue Foster, Executive Director, Department of Health, Board of Dentistry, 4052 Bald Cypress Way, Bin #C08, Tallahassee, Florida 32399-3258.

If any person decides to appeal any decision made by the Board with respect to any matter considered at this meeting, he/she will need to ensure that a verbatim record of the proceeding is made, which record includes the testimony and evidence upon which the appeal is to be made.

Those who are hearing impaired, using TDD equipment can call the Florida Telephone Relay System, 1(800)955-8771. Persons requiring special accommodations due to disability or physical impairment should contact Sue Foster.

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**The Department of Health, Board of Dentistry** announces an official meeting to be held via telephone conference call. All interested parties are invited to attend the telephone conference call, which is open to the public.

DATE AND TIME: February 23, 2004, 7:00 p.m.

PLACE: Call (850)410-0966

GENERAL SUBJECT MATTER TO BE CONSIDERED: To discuss proposed rule changes.

A copy of the agenda may be obtained by writing: Sue Foster, Executive Director, Department of Health, Board of Dentistry, 4052 Bald Cypress Way, Bin #C08, Tallahassee, Florida 32399-3258.

If any person decides to appeal any decision made by the Board with respect to any matter considered at this meeting, he/she will need to ensure that a verbatim record of the proceeding is made, which record includes the testimony and evidence upon which the appeal is to be made.

Those who are hearing impaired, using TDD equipment can call the Florida Telephone Relay System, 1(800)955-8771.

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**The Department of Health, Board of Dentistry** announces a schedule of official Board meetings to be held via telephone conference call. All interested parties are invited to participate in the telephone conference calls, which are open to the public. It is anticipated that the Board will not hold meetings on each and every date, but only on those dates when there is a need for discussion.

DATES AND TIME: March 3, 2004; March 10, 2004; March 17, 2004; March 24, 2004; March 31, 2004, 12:00 Noon

PLACE: Call the Board office at (850)245-4474 to obtain the phone number.

GENERAL SUBJECT MATTER TO BE CONSIDERED: To discuss the proposed legislation affecting the Board of Dentistry and other general business matters.

A copy of the agenda may be obtained by writing: Sue Foster, Executive Director, Department of Health, Board of Dentistry, 4052 Bald Cypress Way, Bin #C08, Tallahassee, Florida 32399-3258.

If any person decides to appeal any decision made by the Board with respect to any matter considered at this meeting, he/she will need to ensure that a verbatim record of the proceeding is made, which record includes the testimony and evidence upon which the appeal is to be made.

Those who are hearing impaired, using TDD equipment can call the Florida Telephone Relay System, 1(800)955-8771. Persons requiring special accommodations due to disability or physical impairment should contact Sue Foster.

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The **Department of Health, Board of Dentistry** will hold a Probable Cause Panel meeting where reconsiderations will be heard:

DATE AND TIME: March 5, 2004, 9:00 a.m.

PLACE: Department of Health, Building 4042, Room 301, 4052 Bald Cypress Way, Tallahassee, FL 32399, (850)245-4474

GENERAL SUBJECT MATTER TO BE CONSIDERED: To review reconsideration cases.

If a person decides to appeal any decision made by the Board with respect to any matter considered at this meeting or hearing, he may need to ensure that a verbatim record of the proceedings is made, which records include the testimony and evidence upon which the appeal is to be based.

Any person requiring a special accommodation at this meeting because of a disability or physical impairment should contact Sarah Walls, (850)245-4474, at least five calendar days prior to the meeting. Persons who are hearing or speech impaired, can contact Ms. Walls using the Florida Dual Party Relay System, 1(800)955-8770 (Voice) and 1(800)955-8771 (TDD).

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The **Department of Health, Board of Hearing Aid Specialists** announces an official board meeting. All interested parties are invited to attend at the address listed below, which is normally open to the public.

DATE AND TIME: March 5, 2004, 9:00 a.m.

PLACE: DoubleTree Galleria, 2670 E. Sunrise Boulevard, Fort Lauderdale, FL 33304, (954)565-3800

GENERAL SUBJECT MATTER TO BE CONSIDERED: General Board Business.

A copy of the agenda may be obtained by writing: Sue Foster, Executive Director, Department of Health, Board of Hearing Aid Specialists, 4052 Bald Cypress Way, Bin #C08, Tallahassee, Florida 32399-3258.

If any person decides to appeal any decision made by the Board with respect to any matter considered at this meeting, he/she will need to ensure that a verbatim record of the proceeding is made, which record includes the testimony and evidence upon which the appeal is to be made.

Those who are hearing impaired, using TDD equipment, can call the Florida Telephone Relay System, 1(800)955-8771. Persons requiring special accommodations due to disability or physical impairment should contact Sue Foster, at least one week prior to meeting date.

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The **Board of Nursing**, South Probable Cause Panel will hold a duly noticed conference call meeting to which all persons are invited to attend.

DATE AND TIME: February 26, 2004, 5:30 p.m.

PLACE: Department of Health, (850)921-6433

GENERAL SUBJECT MATTER TO BE CONSIDERED: For cases previously heard by the panel.

Any person requiring special accommodations at this meeting because of a disability or physical impairment should contact the Board, (850)245-4355, at least 48 hours prior to the meeting. If you are hearing or speech impaired, please contact the Board office using the Dual Party Relay System, 1(800)955-8770 (Voice) and 1(800)955-8771 (TDD).

If any person decides to appeal any decision made by the Board with respect to any matter considered at this meeting, he/she will need to ensure that a verbatim record of the proceeding is made, which record includes the testimony and evidence upon which the appeal is to be made.

A copy of the agenda item may be obtained by writing: Dan Coble, Executive Director, 4052 Bald Cypress Way, Bin #C02, Tallahassee, FL 32399-3257.

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The **Department of Health, Board of Physical Therapy Practice** announces a meeting to which all persons are invited:

DATES AND TIMES: March 4, 2004, 6:30 p.m. or soon thereafter; March 5, 2004, 8:15 a.m. or soon thereafter

PLACE: Orlando Airport Marriott, 7499 Augusta National Drive, Orlando, FL 32822

GENERAL SUBJECT MATTER TO BE CONSIDERED: General Business Meeting/Rules Workshop.

A copy of the agenda may be obtained by writing: Department of Health, Board of Physical Therapy Practice, 4052 Bald Cypress Way, Tallahassee, FL 32399-3255, (850)245-4373.

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/hearing/meeting is asked to advise the department at least 48 hours before the workshop/hearing/meeting by contacting the board office at (850)488-0595. If you are hearing or speech impaired, please contact the department by calling 1(800)955-8770 (Voice) or 1(800)955-8771 (TDD).

Please note that if a person decides to appeal any decision made by the Board with respect to any matter considered at the above-cited meeting or hearing, he/she will need to ensure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is to be based.

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The **Department of Health, Board of Psychology**, Ad-Hoc Committee announces a meeting to which all persons are invited.

DATE AND TIME: February 19, 2004, 11:00 a.m. or soon thereafter

PLACE: Wyndham Westshore, 4860 West Kennedy Blvd., Tampa, FL 33609

GENERAL SUBJECT MATTER TO BE CONSIDERED: Ad-Hoc Committee meeting regarding Rule 64B19-18.0025, F.A.C., Qualifications to Practice Juvenile Sexual Offender Therapy.

A copy of the agenda may be obtained by writing: Department of Health, Board of Psychology, 4052 Bald Cypress Way, Bin #C05, Tallahassee, Florida 32399-3255, (850)245-4373.

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/hearing/meeting is asked to advise the department at least 48 hours before the workshop/hearing/meeting by contacting the board office at (850)245-4373. If you are hearing or speech impaired, please contact the department by calling 1(800)955-8770 (Voice) or 1(800)955-8771 (TDD).

Please note that if a person decides to appeal any decision made by the Board with respect to any matter considered at the above-cited meeting or hearing, he/she will need to ensure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is to be based.

The **Council of Licensed Midwifery** announces a meeting to which all interested persons are invited to attend.

DATE AND TIME: Friday, March 5, 2004, 9:00 a.m. or soon thereafter

PLACE: Contact: Council of Licensed Midwifery, (850)245-4161, for the meet me number

GENERAL SUBJECT MATTER TO BE CONSIDERED: To conduct general business of the Board.

Any person requiring special accommodations at this meeting due to disability or physical impairment should contact the Council of Licensed Midwifery at (850)245-4161, at least five (5) calendar days prior to the meeting. If you are hearing or speech impaired, please contact the Board office using the Florida Dual Party Relay System, 1(800)955-8770 (Voice) and 1(800)955-8771 (TDD).

A copy of the agenda may be obtained by writing: Council of Licensed Midwifery, 4052 Bald Cypress Way, Bin #C06, Tallahassee, Florida 32399-3256.

Please note, that if a person decides to appeal any decision made by the Board with respect to any matter considered at this meeting or hearing, he will need a record of the proceedings,

and for such purpose he may need to ensure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is to be based.

#### **DEPARTMENT OF CHILDREN AND FAMILY SERVICES**

The **Department of Children and Family Services**, District 14 announces the following meetings to which all persons are invited.

Heart of Florida Community Alliance Monthly Meetings

DATES AND TIMES: Wednesday, February 18, 2004, 3:00 p.m.; Wednesday, March 17, 2004, 3:00 p.m.; Wednesday, April 21, 2004, 3:00 p.m.; Wednesday, May 19, 2004, 3:00 p.m.; Wednesday, June 16, 2004, 3:00 p.m.

PLACE: Polk County Board of County Commissioners 4th Floor, Board Members' Conference Room, 330 West Church Street, Bartow, FL

GENERAL SUBJECT MATTER TO BE CONSIDERED: Regular meeting of the Heart of Florida Community Alliance.

For copies of the agenda, further information, or persons needing accommodation to participate in this meeting please contact: Patty Harrison, (863)619-4157, 1(800)342-0825 or TDD (863)648-3337.

#### **FLORIDA HOUSING FINANCE CORPORATION**

Notice is hereby given that the **Florida Housing Finance Corporation** ("Florida Housing") will conduct a public hearing in accordance with the Tax Equity and Fiscal Responsibility Act of 1982 ("TEFRA") to which all interested persons are invited.

DATE AND TIME: Tuesday, February 24, 2004, 10:00 a.m. (EST)

PLACE: Florida Housing Finance Corporation, 227 North Bronough Street, Suite 5000, Tallahassee, Florida 32301

GENERAL SUBJECT MATTER TO BE CONSIDERED: To conduct a TEFRA hearing concerning the potential future issuance of bonds by Florida Housing to refinance the following multifamily residential rental development in the aggregate face amount, not to exceed the amount listed below: Buchanan Bay Townhomes, a 228-unit multifamily residential rental development located at 1813 Buchanan Bay Circle, Orlando, Orange County, Florida 32839. The owner, operator or manager of the development is Buchanan Bay Ltd., 1 SunAmerica Center, Century City, Los Angeles, California 90067, or such successor in interest in which Sun America Affordable Housing Partners Inc., or an affiliate thereof, is a managing member, general partner and/or controlling stockholder. The total tax-exempt bond amount is not to exceed \$10,451,000.

All interested parties may present oral comments at the public TEFRA hearing or submit written comments regarding the potential bond issuance for the development being financed.

Written comments should be received by Florida Housing by 5:00 p.m. (EST), Monday, February 23, 2004, and should be addressed to the attention of David Westcott, Multifamily Bond Administrator. Any persons desiring to present oral comments should appear at the hearing.

If requested in writing, a fact-finding hearing will be held in the county where the property is located. When possible, the local hearing will be held before the formal TEFRA hearing and comments received at the local hearing will be placed on record at the TEFRA hearing.

Any person requiring a special accommodation at this meeting because of a disability or physical impairment should contact David Westcott, Multifamily Bond Administrator, Florida Housing Finance Corporation, (850)488-4197, at least five calendar days prior to the meeting. If you are hearing impaired, please contact the Florida Housing using the Dual Party Relay System that can be reached at 1(800)955-8770 (Voice) and 1(800)955-8771 (TDD).

Any person who decides to appeal any decision made by Florida Housing with respect to any matter considered at this hearing, will need a record of the proceedings, and for such purpose may need to ensure that a verbatim record of the proceedings be made, which will include the testimony and evidence upon which the appeal is based.

The **Florida Housing Finance Corporation** announces a workshop and meeting of the Board of Directors to which all interested parties are invited:

Fiscal Committee; Guarantee Committee; Universal Cycle Committee; Multifamily Revenue Bond Committee; Board Meeting

DATE AND TIME: February 27, 2004, 9:00 a.m. – adjourned

PLACE: City Hall, Commission Chambers, 300 South Adams St., Tallahassee, FL 32301, (850)891-2065

GENERAL SUBJECT MATTER TO BE CONSIDERED:

1. Consider, review, and take action on matters brought to the Fiscal Committee and to consider recommendations made by the Fiscal Committee to the Board.
2. Consider, review, and take action on matters brought to the Guarantee Committee and to consider recommendations made by the Guarantee Program Committee to the Board.
3. Consider, review, and take action on matters brought to the Universal Cycle Committee and to consider recommendations made by the Universal Cycle Committee to the Board.
4. Consider, review, and take action on matters brought to the Multifamily Revenue Bond Committee and to consider recommendations made by the Multifamily Revenue Bond Committee to the Board.

5. Authorize the Corporation Staff to proceed with all actions necessary for the sale of bonds of pending multifamily issues, which have satisfied the requirements for funding.
6. Consider financing and acknowledgement resolutions for various multifamily developments, under any multifamily program, including the ranking of developments.
7. Consider appointment of professionals including but not limited to trustee and/or originator/servicer for upcoming and/or past multifamily programs and single-family programs.
8. Consider approval of all bond documents for and terms of all upcoming single-family and multifamily bond sales, including those secured by third-party guarantors, letters-of-credit, insurance or other mechanisms.
9. Consider adopting resolutions authorizing negotiated or competitive sale of bonds on various single-family and multifamily issues.
10. Consider directing Staff to submit summaries of various TEFRA/Public Hearings to the Governor.
11. Consideration of policy issues concerning ongoing and upcoming Single-family Bond issues including initiation of request for proposals on an emergency basis, and structuring new issues.
12. Consideration of all necessary actions with regard to the Multifamily Bond Program.
13. Consideration of approval of underwriters for inclusion on approved master list and teams.
14. Consideration of all necessary actions with regard to the HOME Rental Program.
15. Consideration of all necessary actions with regard to the HC (Housing Credits) Program.
16. Consideration of all necessary actions with regard to the SAIL (State Apartment Incentive Loan) Program.
17. Consideration of all necessary actions with regard to the SHIP (State Housing Initiatives Partnership) Program.
18. Consideration of all necessary actions with regard to the PLP (Predevelopment Loan) Program.
19. Consideration of all necessary actions with regard to the Home Ownership Programs.
20. Consideration of all necessary actions, for initiating new rules or rule amendments on an emergency or non-emergency basis.
21. Consideration of Appeals from Universal Cycle ranking and grading with entry of final orders.
22. Consideration of workouts or modifications for existing projects funded by the Corporation.
23. Consideration of matters relating to the stated purpose of the Corporation to provide safe and sanitary housing that is affordable for the residents of Florida.

24. Consideration of funding additional reserves for the Guarantee Fund.
25. Consideration of audit issues.
26. Evaluation of Professional and Consultant performance.
27. Such other matters as may be included on the Agenda for the February 27, 2004, Board Workshop and Meeting.

A copy of the agenda may be obtained by contacting: Sheila Freaney, Board Liaison, Florida Housing Finance Corporation, 227 North Bronough Street, Suite 5000, Tallahassee, Florida 32301-1329, (850)488-4197.

Any person requiring a special accommodation at this meeting because of a disability or physical impairment should contact Sheila Freaney, Florida Housing Finance Corporation, (850)488-4197, at least five calendar days prior to the meeting. If you are hearing or speech impaired, please contact the Corporation using the Florida Dual Party Relay System, 1(800)955-8770 (Voice) and 1(800)955-8771 (TDD).

If any person decides to appeal any decision made by the Corporation with respect to any matter considered at this meeting, he or she will need a record of the proceedings, and for such purpose, he or she may need to ensure that a verbatim record of the proceedings be made, which record includes the testimony and evidence upon which the appeal is to be based.

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#### **FISH AND WILDLIFE CONSERVATION COMMISSION**

The **Fish and Wildlife Conservation Commission** announces a public workshops concerning permit, *Trachinotus falcatus*, to which all interested persons are invited:

TIME AND DATE: Tuesday, February 24, 2004, 7:00 p.m. – 9:00 p.m.

PLACE: Monroe County Library, Mile Marker 81.5, US Hwy 1 (Florida Bay Side), Islamorada, Florida 33036

GENERAL SUBJECT MATTER TO BE CONSIDERED: The Fish and Wildlife Conservation Commission is considering establishing a vessel limit for commercial and recreational harvesters of permit and is holding workshops to gather public testimony regarding this issue. Currently the recreational bag limit for permit is six fish per person per day. The bag limit is part of an aggregate pompano/permit bag limit. This proposal would create a separate permit bag limit and apply that to commercial and recreational harvesters. Currently, permit may be harvested with either a cast net or hook and line gear.

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least five calendar days before the workshop/meeting by contacting: Cindy Hoffman, ADA Coordinator, (850)488-6411. If you are hearing or speech impaired, please contact the agency by calling (850)488-9542.

For further information, contact Bob Palmer, Division of Marine Fisheries, 2590 Executive Center Circle, East, Suite 201, Tallahassee, Florida 32301, (850)487-0554.

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The **Fish and Wildlife Conservation Commission** announces two Monroe County public workshops concerning the live collection marine life fishery, to which all interested persons are invited:

DATE AND TIME: February 25, 2004, 7:00 p.m. – 9:00 p.m.

PLACE: Key Largo School, 104801 Overseas Blvd., Mile Marker 105, Key Largo, Florida 33037

DATE AND TIME: February 26, 2004, 7:00 p.m. – 9:00 p.m.

PLACE: Marathon Government Center, 2798 Overseas Highway, Mile Marker 48.5, Marathon, Florida 33050

GENERAL SUBJECT MATTER TO BE CONSIDERED: The Fish and Wildlife Conservation Commission is holding workshops to gather public testimony regarding limited entry options for commercial fishers holding a marine life endorsement and public input about other recommended changes to Rule Chapter 68B-42, F.A.C., entitled "Marine Life".

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least five calendar days before the workshop/meeting by contacting: Cindy Hoffman, ADA Coordinator, (850)488-6411. If you are hearing or speech impaired, please contact the agency by calling (850)488-9542.

For further information, contact Bob Palmer, Division of Marine Fisheries, 2590 Executive Center Circle, East, Suite 201, Tallahassee, Florida 32301, (850)487-0554.

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#### **VISIT FLORIDA**

The **VISIT FLORIDA**, Marketing Council announces a public meeting as follows:

Meeting: The Advertising and Internet Committee

DATE AND TIME: Friday, February 6, 2004, 9:00 a.m. – 10:00 a.m.

PLACE: VISIT FLORIDA, Corporate Office, 661 E. Jefferson Street, Suite 300, Tallahassee, Florida 32301, (850)488-5607

GENERAL SUBJECT MATTER TO BE CONSIDERED: The committee will meet to review industry input on the website redesign project.

For further information contact Tom Flanigan, VISIT FLORIDA, P. O. Box 1100, Tallahassee, Florida 32302-1100, (850)488-5607, Ext. 301.

Any person requiring special accommodations at this meeting because of a disability should contact VISIT FLORIDA at least five business days prior to the meeting. Persons who are

hearing or speech impaired can contact VISIT FLORIDA by using the Florida Relay Service, 1(800)955-8770 (Voice) or 1(800)955-8771 (TDD)

**WORKFORCE FLORIDA**

The **Workforce Florida** announces their quarterly Board of Directors' and related meetings to which all persons are invited.

DATES AND TIMES: Partners' Meeting – February 18, 2004, 1:00 p.m. – 4:00 p.m.; Board of Directors' Meeting – February 19, 2004, 9:30 a.m. – 12:00 Noon; Council Meetings – February 19, 2004, 1:00 p.m. – 3:00 p.m.

PLACE: Embassy Suites Hotel, Downtown Orlando, 191 East Pine Street, Orlando, FL 32801, (407)841-1000

For more information contact: Peggy Dransfield, (850)921-1119.

**FLORIDA INDEPENDENT LIVING COUNCIL**

The **Florida Independent Living Council** announces the following meeting:

MEETING: Full Council Teleconference

DATE AND TIME: Thursday, February 19, 2004, 11:00 a.m. (EST)

PLACE: FILC, Inc. Administrative Offices, 1018 Thomasville Road, Suite 100A, Tallahassee, Florida 32303-6271

GENERAL SUBJECT MATTER TO BE CONSIDERED: To conduct the regular business of the council.

A copy of the agenda may be obtained by contacting: Florida Independent Living Council, 1018 Thomasville Road, Suite 100A, Tallahassee, Florida 32303-6271, (850)488-5624 or toll free 1(877)822-1993.

Any person who needs an accommodation to participate in this meeting because of a disability, including alternative formats, should submit a request for such accommodation in writing at least one week before the meeting date.

COMMITTEE AND TASK FORCE MEETINGS: Please note that committees and task forces of the Florida Independent Living Council will meet at various times throughout the year to carry out the work of the council; the meeting dates and times will be posted at the above address at least seven days prior to the meeting. Persons who want to be notified of such meetings may request to be put on the mailing list for such notices by writing to Beth Schultz at the council address.

Notices of meetings and hearing must advise that a record is required to appeal. Each board, commission or agency of this state or of any political subdivision thereof shall include in the notice of any meeting or hearing, if notice of the meeting or hearing is required, of such board, commission or agency, conspicuously on such notice, the advice that, if a person decides to appeal any decision made by the board, agency or commission with respect to any matter considered at such

meeting or hearing, he or she will need a record of the proceedings, and that, for such purpose, he or she may need to ensure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is to be based. (Florida Statutes, §286.0105)

The **Florida Independent Living Council**, Inc. announces the following public forums for comments on the 2004-2007 State Plan for Independent Living (SPIL):

DATE AND TIME: Wednesday, February 25, 2004, 10:00 a.m. – 12:00 Noon

PLACE: Ability 1st, Leroy Collins Public Library, Program Room A, 2804 S. Adams St., Tallahassee, Florida 32301, (850)575-9621 (Voice/TDD), (850)595-5560 Fax

DATE AND TIME: Wednesday, March 3, 2004, 5:30 p.m. – 7:00 p.m.

PLACE: CIL of South Florida, 6660 Biscayne Blvd., Miami, Florida 33138, (305)751-8025 (Voice/TDD), 1(800)854-7551 Toll Free, (305)751-8944 Fax

DATE AND TIME: Saturday, March 6, 2004, 11:00 a.m. – 2:00 p.m.

PLACE: CIL in Central Florida, 720 N. Denning Drive, Orlando, Florida 32789-3020, (407)623-1070 Voice/TDD, 1(877)891-6448 Toll Free, (407)623-1390 Fax

DATE AND TIME: Wednesday, March 10, 2004, 3:00 p.m. – 5:00 p.m.

PLACE: Caring and Sharing CIL, 12552 Belcher Road South, Largo, Florida 33773, (727)577-0065 Voice/TDD, (866)539-7550 Toll Free, (727)539-7588 Fax

DATE AND TIME: Thursday, March 11, 2004, 3:00 p.m. – 6:00 p.m.

PLACE: Self-Reliance, Inc., Tampa Workforce Center, 9215 N. Florida Avenue, Suite 109, Tampa, Florida 33612, (813)375-3965 Voice/TDD, (813)975-6559 Fax

DATE AND TIME: Thursday, March 25, 2004, 10:00 a.m. – 12:00 Noon

GENERAL SUBJECT MATTER TO BE CONSIDERED: To obtain public comments on the next three year State Plan for Independent Living.

A copy of the goals and objectives for the State Plan may be obtained by contacting: Florida Independent Living Council, Inc., 1018 Thomasville Road, Suite 100A, Tallahassee, Florida 32303-6271, (850)488-5624.

Any person who needs an accommodation to participate in this meeting because of a disability should submit a request for such accommodation in writing at least one week before the meeting date.

Notices of meetings and hearing must advise that a record is required to appeal. Each board, commission or agency of this state or of any political subdivision thereof shall include in the notice of any meeting or hearing, if notice of the meeting or hearing is required, of such board, commission or agency,

conspicuously on such notice, the advice that, if a person decides to appeal any decision made by the board, agency or commission with respect to any matter considered at such meeting or hearing, he or she will need a record of the proceedings, and that, for such purpose, he or she may need to ensure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is to be based. (Florida Statutes, §286.0105)

**FLORIDA CENTER FOR ADVISING AND ACADEMIC SUPPORT**

The **Florida Center for Advising and Academic Support** (FCAAS) announces a public meeting to which all persons are invited.

DATE AND TIME: February 20, 2004, 10:00 a.m. – 3:00 p.m.

PLACE: Tampa Airport Marriott, Tampa, Florida 33607

GENERAL SUBJECT MATTER TO BE CONSIDERED: The quarterly meeting of the FCAAS Board will be held to discuss ongoing development and administration of the FACTS project.

A copy of the agenda may be obtained by writing: FCAAS, 325 West Gaines Street, Suite 1414, Tallahassee, Florida 32399-0400.

Any persons requiring special accommodations to attend this meeting because of a disability or physical impairment may contact FCAAS, (850)245-0518, at least seven days in advance so that their needs can be accommodated.

**FLORIDA GOVERNMENTAL FINANCING COMMISSION**

The **First Florida Governmental Financing Commission** announces the following special public meeting, where all interested parties are invited:

DATE AND TIME: Friday, February 20, 2004, 11:00 a.m.

PLACE: Room 215, City Hall, City of Hollywood, 2600 Hollywood Boulevard, Hollywood, Florida

A copy of the agenda may be obtained by contacting: Mr. Richard C. Dowdy, Program Administrator, Post Office Box 14923, Tallahassee, FL 32317-4923, (850)878-1874.

**FAMILY NETWORK ON DISABILITIES OF FLORIDA**

The **Family Network on Disabilities of Florida, Inc.** announces a meeting of the Board of Directors.

DATE AND TIME: Saturday, February 21, 2004, 9:00 a.m. – 10:00 a.m.

PLACE: Abilities, 2735 Whitney Road, Clearwater, FL 33760

GENERAL SUBJECT MATTER TO BE CONSIDERED: General educational issues.

**DEPARTMENT OF MILITARY AFFAIRS**

The **Department of Military Affairs** announces an Armory Board meeting to which all interested persons are invited.

DATE AND TIME: Saturday, February 21, 2004, 1:00 p.m.

PLACE: Adjutant General’s Conference Room, St. Francis Barracks, 82 Marine Street, St. Augustine, Florida

GENERAL SUBJECT MATTER TO BE CONSIDERED: Armory Board Meeting. The Armory Board will consider action on contracts, leases, agreements and other business relative to real property and facility management issues under its control.

If a person decides to appeal any decision made by the Armory Board with respect to any matter considered at this meeting, that person may need to ensure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is to be based. In accordance with Section 286.0105, F.S.

**FLORIDA LEAGUE OF CITIES**

The **Florida Municipal Pension Trust Fund** announces a public meeting to which all persons are invited:

DATE AND TIME: Thursday, February 26, 2004, 11:00 a.m.

PLACE: The Alexander Suites Hotel, 5225 Collins Avenue, Miami Beach, Florida 33140, (305)865-6500

A joint meeting of the Florida Municipal Pension Trust Fund and the Florida Municipal Investment Trust will also be held February 26, 2004, 1:00 p.m., at the same location. The purpose of this meeting is to receive reports from investment manager and performance monitor.

GENERAL SUBJECT MATTER TO BE CONSIDERED: Regular Meeting of the Florida Municipal Pension Trust Fund to discuss general business of the Trust.

A copy of the meeting agenda may be obtained by contacting: Jeannie Hagan, Director of Financial Services, Florida League of Cities, Inc., Post Office Box 1757, Tallahassee, Florida 32302-1757, 1(800)616-1513, Ext. 277.

The **Florida Municipal Investment Trust** (FMIVT) announces a public meeting to which all persons are invited:

DATE AND TIME: Thursday, February 26, 2004, 2:00 p.m.

PLACE: The Alexander Suites Hotel, 5225 Collins Avenue, Miami Beach, Florida 33140, (305)865-6500

A joint meeting of the Florida Municipal Pension Trust Fund and the Florida Municipal Investment Trust will also be held February 26, 2004, 1:00 p.m., at the same location. The purpose of this meeting is to receive reports from investment manager and performance monitor.

GENERAL SUBJECT MATTER TO BE CONSIDERED: Regular Meeting of the Florida Municipal Investment Trust (FMIVT) to discuss general business of the Trust.

A copy of the meeting agenda may be obtained by contacting: Jeannie Hagan, Director of Financial Services, Florida League of Cities, Inc., Post Office Box 1757, Tallahassee, Florida 32302-1757, 1(800)616-1513, Ext. 277.

The **Florida Municipal Loan Council** announces a public meeting to which all persons are invited:

DATE AND TIME: Thursday, February 26, 2004, 3:00 p.m. or immediately upon adjournment of FMIvT which begins at 2:00 p.m.

PLACE: The Alexander Suites Hotel, 5225 Collins Avenue, Miami Beach, Florida 33140, (305)865-6500

GENERAL SUBJECT MATTER TO BE CONSIDERED: Regular Meeting of the Board of Directors for the Florida Municipal Loan Council to discuss general business of the Council.

A copy of the meeting agenda may be obtained by contacting: Jeannie Hagan, Director of Financial Services, Florida League of Cities, Inc., Post Office Box 1757, Tallahassee, Florida 32302-1757, 1(800)616-1513, Ext. 277.

**FLORIDA DEVELOPMENTAL DISABILITIES COUNCIL**

The **Florida Developmental Disabilities Council**, Inc. announces it's regularly scheduled business meeting.

Standing Committee Meetings

DATE AND TIME: Thursday, February 26, 2004, 11:00 a.m.

Full Council Meeting

DATE AND TIME: Friday, February 27, 2004, 9:00 a.m. – 2:00 p.m.

PLACE: Homewood Suites, 2987 Apalachee Parkway, Tallahassee, FL 32301, (850)402- 9400

To receive a copy of the agenda, or request special accommodations for participation in the meeting, please contact Colleen Fox, 124 Marriott Drive, Suite 203, Tallahassee, FL 32301-2981, or call toll free 1(800)580-7801, local (850)488-4180 or TDD toll free 1(888)488-8633.

**FLORIDA SURPLUS LINES SERVICE OFFICE**

The **Florida Surplus Lines Service Office**, Board of Governors' announces a public meeting to which all interested parties are invited:

BOARD OF GOVERNORS' QUARTERLY MEETING

DATE AND TIME: Wednesday, April 19, 2004, 1:00 p.m.

PLACE: Florida Surplus Lines Service Office, 1441 Maclay Commerce Drive, Suite 200, Tallahassee, FL 32312

GENERAL SUBJECT MATTER TO BE CONSIDERED: General Business Matters.

A copy of the agenda may be obtained by sending a faxed request to Georgie Barrett, (850)513-9624.

In accordance with the Americans with Disabilities Act, persons needing a special accommodation to participate in this meeting should contact Georgie a week prior to the meeting at (850)224-7676, Ext. 301.

**Section VII  
Notices of Petitions and Dispositions  
Regarding Declaratory Statements**

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

Pursuant to Chapter 2003-145, Laws of Florida, all notices for the Board of Trustees of the Internal Improvement Trust Fund are published on the Internet at the Department of Environmental Protection's home page at <http://www.dep.state.fl.us/> under the link or button titled "Official Notices."

**DEPARTMENT OF ENVIRONMENTAL PROTECTION**

Pursuant to Chapter 2003-145, Laws of Florida, all notices for the Department of Environmental Protection are published on the Internet at the Department of Environmental Protection's home page at <http://www.dep.state.fl.us/> under the link or button titled "Official Notices."

**Section VIII  
Notices of Petitions and Dispositions  
Regarding the Validity of Rules**

**Notice of Petition for Administrative Determination has been filed with the Division of Administrative Hearings on the following rules:**

**NONE**

**Notice of Disposition of Petition for Administrative Determination have been filed by the Division of Administrative Hearings on the following rules:**

**NONE**

**Section IX  
Notices of Petitions and Dispositions  
Regarding Non-rule Policy Challenges**

**NONE**

**Section X  
Announcements and Objection Reports of  
the Joint Administrative Procedures  
Committee**

The **Joint Administrative Procedures Committee** announces an agenda meeting.

DATE AND TIME: February 16, 2004, 11:30 a.m. – 12:30 p.m.

PLACE: House Office Building, Committee Room 24, Tallahassee, Florida 32399-1300

**CALL TO ORDER AND ROLL CALL**

**TAB 1 STATUS REPORT**

**NEW OBJECTION**

TAB 2 55A-7.011(2), Employment Preference When Numerically Based Selection Process Is Not Used. Department of Veterans' Affairs

**REPORT ON PREVIOUS DEFERRALS**

TAB 3 60A-1.006, Vendors and Contractors. Department of Management Services  
60A-1.030, MyFloridaMarketPlace Vendor Registration. Department of Management Services

**REPORTS AND APPEARANCES**

**Section XI  
Notices Regarding Bids, Proposals and  
Purchasing**

**DEPARTMENT OF EDUCATION**

Notice of Invitation to Negotiate  
ITN Solicitation Number SJSRC-04/05-001CA

Title: INVITATION TO NEGOTIATE SCHOOL READINESS SERVICES WITHIN ST. JOHNS COUNTY, FLORIDA

Purpose: The St. Johns County School Readiness Coalition, Inc. will release an Invitation to Negotiate in an effort to enter into an agreement with one or more agencies to provide innovative, quality, outcome based, School Readiness programs for children birth through age twelve. The focus of the Invitation to Negotiate is to find one or more service providers who will partner with the Coalition in meeting its goal to offer a seamless quality service delivery system for all

School Readiness services in St. Johns County. Services include: Eligibility and Provider Payments; Parent and Child Services; Provider Development and Support.

All multi-agency collaboration with a lead agency or single agencies are encouraged to submit a proposal. Please contact the St. Johns County School Readiness Coalition, c/o PWD Solutions, Inc., 140 South Beach Street, Suite 202, Daytona Beach, FL 32114, cmailes@pwdinc.org, or (386)267-0511 (Fax) for more information. The Invitation to Negotiate will be available for distribution by February 20, 2004, with the successful respondent's contract to begin July 1, 2004. Deadline for all proposals will be on April 15, 2004. Contract Award Notice will be posted May 11, 2004.

**NOTICE OF CORRECTION  
MBE GOALS ARE AMENDED**

**NOTICE TO CONSTRUCTION MANAGEMENT FIRMS  
Duval County Public Schools  
Request for Qualifications (RFQ)**

The Office of Facilities Planning and Construction announces that Construction Management services are required for the following project:

Project Number: C-90980

Project Title: New Northside K-8 Center No. 150 (New Berlin/Cedar Point)

Project Location: North side of New Berlin at the intersection of Cedar Point Road

Scope of Work: Phase I of a two phase project to build a K-5 school for 788 student stations with core facilities to accommodate a K-8 center with the total construction budgeted not to exceed \$9,000,000.

PROJECT MANAGER: Anthony Carter

PHONE NO.: (904)390-2279

MBE GOALS: The correct MBE Goals are 10% AA, 3% HANA, 7% WBE

Information on the selection process can be found at [www.educationcentral.org/facilities](http://www.educationcentral.org/facilities) under Forms and Standards then under General Documents, Selection of Construction Manager.

**ADVERTISEMENT FOR BIDS**

The School Board of Pinellas County, Florida will receive sealed bids in the Purchasing Department of the Walter Pownall Service Center, 11111 So. Belcher Road, Largo, Florida until 2:00 p.m. local time, on March 16, 2004 for the purpose of selecting a Contractor for supplying all labor, material, and ancillary services required for the construction of the following per the accompanying drawings and specifications:

Window & Storefront Replacement – Bid #04-968-599  
 Coachman Fundamental Middle School  
 2235 N. E. Coachman Road  
 Clearwater, FL 33765

Provide labor and materials to provide labor, materials, tools, equipment and supervision necessary to remove and replace existing windows, storefronts and doors of Buildings 1, 2, and 3 per plans and specifications. This project requires bonding.

A Pre-Bid Conference will be held at the project site on February 24, 2004, 9:00 a.m. ATTENDANCE IS MANDATORY.

Public opening of the Bids will occur in the Purchasing Conference Room at the above address and all interested parties are invited to be present.

Plans and specifications are available at the office of:

Purchasing Department  
 Walter Pownall Service Center  
 11111 So. Belcher Road  
 Largo, FL 33773

Bonding and insurance are required for this project. The Owner reserves the right to reject all bids.

BY ORDER OF THE SCHOOL BOARD OF PINELLAS  
 COUNTY, FLORIDA

J. HOWARD HINESLEY SUPERINTENDENT OF SCHOOLS AND EX-OFFICIO SECRETARY TO THE SCHOOL BOARD	LINDA S. LERNER CHAIRMAN  MARK C. LINDEMANN DIRECTOR PURCHASING
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Notice of Request for Proposal

The Monroe County School Readiness Coalition, Inc. announces the following Request for Proposal (RFP) to which all persons are invited to bid:

TIME: RFP available February 13, 2004

PLACE: Monroe County, Florida

PURPOSE: The Monroe County School Readiness Coalition will be soliciting proposals to contract with an organization or agency to provide community childcare and school readiness services in Monroe County, Florida for the 2004-2005 Fiscal Year. Services will be funded through federal, state and local allocations. School Readiness Legislation requires specific services in the Contract including Eligibility/Enrollment, Provider Payments, Parent and Child Services, Provider Recruitment, Development, Monitoring and Assistance, Curriculum Support and Early Childhood Assessment Programs.

A single agency or multi-agency collaboration with a lead agency is encouraged to submit a proposal. The Request for Proposal will be available for distribution on February 13, 2004. The deadline for Notice of Intent to Submit an Application is February 23, 2004. Applications must be received by April 12, 2004. Successful bidder's contract begins

July 1, 2004. Please write to the Monroe County School Readiness Coalition, 1304 Truman Ave., Key West, FL 33040, for more information or to be sent a copy of the RFP. The RFP may also be picked up at the Coalition Address in Key West.

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

Pursuant to Chapter 2003-145, Laws of Florida, all notices for the Board of Trustees of the Internal Improvement Trust Fund are published on the Internet at the Department of Environmental Protection's home page at <http://www.dep.state.fl.us/> under the link or button titled "Official Notices."

**DEPARTMENT OF ENVIRONMENTAL PROTECTION**

Pursuant to Chapter 2003-145, Laws of Florida, all notices for the Department of Environmental Protection are published on the Internet at the Department of Environmental Protection's home page at <http://www.dep.state.fl.us/> under the link or button titled "Official Notices."

**CITY OF FORT LAUDERDALE**

NOTICE TO CONTRACTORS

Sealed proposals will be received until 9:00 a.m. on Wednesday, March 10, 2004 in the Office of the City Engineer, Public Services Department (Engineering and Architectural Services), City Hall, 100 North Andrews Avenue, 4th Floor, City of Fort Lauderdale, Florida and opened immediately thereafter in the Conference Room, for PROJECT 10541-B – G. T. LOHMEYER WWTP IMPROVEMENTS – FLOW CONTROL, BIOSOLIDS, CHLORINE AND ARCHITECTURAL REHABILITATION

This project consists of Drawing File No. WS-03-01 consisting of 78 sheets.

The Work intended for the Contractor will be to furnish, and install influent force main pipe, fittings, valves, flow meter, concrete slab, supports and tie-in; pretreatment roof removal and replacement; pretreatment roof skylight removal and replacement; interior painting; concrete removal and replacement; concrete, polymer lining; weir slide gates removal and replacement; scum concentrator removal; sluice gates removal and replacement; aboveground flow meter near biological reactor No. 2; sludge holding tank building pipe, fittings, valves and pump removal; seal the sludge holding tanks top perimeter gap; remove and replace spray nozzles at the top of the sludge holding tanks; sludge holding tanks piping, fittings, valves and residual analyzer; demolish and replace the sludge holding tank odor control system; emergency chlorine scrubber; remove and replace the liquid



chlorine system; remove and replace second floor conveyors in the sludge dewatering building.

Proposal blanks may be obtained at the Office of the City Engineer. Plans and specifications are on file in the Office of the City Engineer.

A MANDATORY pre-bid meeting will be held at 1:00 p.m. on Tuesday, February 17, 2004 at the Program Management Team office at 200 North Andrews Avenue, Suite 300 (3rd floor), Fort Lauderdale, FL. Following the meeting there will be a MANDATORY tour of the facility.

It will be the sole responsibility of the bidder to clearly mark proposal as such, and ensure that his proposal reaches the City prior to the bid opening date and time listed.

This project is funded in whole or in part by the Florida Department of Environmental Protection, State Revolving Fund. Bidders are encouraged to become familiar with the provisions of the Supplement Conditions contained in these documents and in particular the requirements of Article 20, Equal Employment Opportunity.

A certified check, cashier's check, bank officer's check or bid bond for five percent (5%), made payable to the City of Fort Lauderdale, Florida, shall accompany each proposal.

The City of Fort Lauderdale reserves the right to waive any informality in any bid and to reject any or all proposals.

Information on bid results and projects currently out to bid can be obtained by calling the pre-recorded City of Fort Lauderdale Bid Information Line, (954)828-5688.

For general inquiries – please call (954)828-5772.

## Section XII Miscellaneous

### DEPARTMENT OF COMMUNITY AFFAIRS

#### STATE ENERGY PROGRAM (SEP) NOTICE OF FUNDING AVAILABILITY

The Department of Energy announced funding availability for Federal Fiscal year 2004 under the State Energy Program Special Projects on January 15, 2004 for eligible applicants. All proposals are required to be submitted by the State Energy Office. Approximately 16,000,000 nationwide is available for award to eligible applicants to carry our eligible activities.

The proposals for Clean Cities Support (Category 01D), Clean Cities Ferry Demonstration (Category 01F), Clean Cities E-85 Fueling Network (Category 01G), Industrial Technologies Program (Category 02) and Building Codes and Standards (Category 03) are due to the Florida Energy Office by the close of business March 15, 2004.

The proposals for Clean Cities Niche Markets (Category 01A), Clean Cities School Buses (Category 01C), Rebuild America (Category 04), Building America (Category 05) and the

Federal Energy Management Program (Category 06) are due to the Florida Energy Office by the close of business March 17, 2004.

The proposals for Clean Cities Refueling Infrastructure (Category 01B), Clean Cities Idle Reduction Technologies (Category 01E), Solar Technology (Category 07), State Wind Energy Support – Tall Towers (Category 08), Distributed Energy – Regional Application Centers (Category 09) and Biomass (Category 10) are due to the Florida Energy Office by the close of business March 19, 2004.

Proposals may either be hand delivered or sent by U. S. Mail or other licensed carrier and must be received on or before the deadline to Florida Energy Office, Florida Department of Environmental Protection, 3900 Commonwealth Boulevard, MS #19, Tallahassee, Florida 32399-3000.

For further information, prospective applicants should contact: Essie Turner, Administrative Assistant, (850)245-2940 or via e-mail: [essie.turner@dep.state.fl.us](mailto:essie.turner@dep.state.fl.us). Interested parties may also address inquiries to the Florida Energy Office, Florida Department of Environmental Protection, 3900 Commonwealth Boulevard, MS #19, Tallahassee, Florida 32399-3000.

NOTICE IS HEREBY GIVEN that the Division of Community Planning, Department of Community Affairs, received the following petitions for binding letters of Development of Regional Impact, Vested Rights and Modification Determinations, pursuant to subsection 380.06(4)(a), Florida Statutes.

FILE NO.: BLIVR-904-002  
 DATE RECEIVED: 1/27/2004  
 DEVELOPMENT NAME: MURDOCK VILLAGE  
 DEVELOPER/AGENT: Charlotte County/  
 DEVELOPMENT TYPE: Rule 28-24.023, F.A.C.  
 LOCAL GOVERNMENT: Charlotte County

NOTICE IS HEREBY GIVEN that the Division of Community Planning, Department of Community Affairs, received the following petitions for binding letters of Development of Regional Impact, Vested Rights and Modification Determinations, pursuant to subsection 380.06(4)(a), Florida Statutes.

FILE NO.: BLID-1104-001  
 DATE RECEIVED: January 30, 2004  
 DEVELOPMENT NAME: BAPTIST HOSPITAL OF MIAMI  
 DEVELOPER/AGENT: Baptist Hospital of Miami, Inc./  
 DEVELOPMENT TYPE: Rules 28-24.017, 28-24.020, F.A.C.  
 LOCAL GOVERNMENT: Miami City

**DEPARTMENT OF TRANSPORTATION**

The Florida Department of Transportation intends to issue an "Airport Site Approval Order," in accordance with Chapter 330, Florida Statutes, "Regulation of Aircraft, Pilots, and Airports" and Chapter 14-60, Florida Administrative Code, "Airport Licensing, Registration, and Airspace Protection" for the following site:

Tocoi Junction Airstrip, a private airport, in St. Johns County, at Latitude 29° 52' 02.9" and Longitude 81° 22' 2.50", to be owned and operated by Mr. William Brown, Post Office Box 805, St. Augustine, FL 32085-0805.

A copy of the Airport Site Approval Order, the Airport's application, the applicable rules, and other pertinent information may be obtained by contacting Mr. William J. Ashbaker, P.E., State Aviation Manager, Florida Department of Transportation, Aviation Office, 605 Suwannee Street, Mail Station 46, Tallahassee, Florida 32399-0450, (850)414-4500, e-mail: aviation.fdot@dot.state.fl.us. Website: <http://www.dot.state.fl.us/aviation>.

**ADMINISTRATIVE HEARING RIGHTS:** Any person whose substantial interests will be determined or affected by this Airport Site Approval Order has the right, pursuant to Section 120.57, Florida Statutes, to petition for an administrative hearing. The petition for an administrative hearing must conform to the requirements of Rule Chapter 28-106, Florida Administrative Code, and must be filed, in writing, within twenty-one days of the publication of this notice, with the Clerk of Agency Proceedings, Office of General Counsel, Florida Department of Transportation, 605 Suwannee Street, Mail Station 58, Room 550, Tallahassee, Florida 32399-0450. Failure to file a petition within the allowed time constitutes a waiver of any right such person has to request a hearing under Chapter 120, Florida Statutes.

**DEPARTMENT OF HIGHWAY SAFETY AND MOTOR VEHICLES**

Notice of Publication for a New Point  
Franchise Motor Vehicle Dealer in a County of More  
than 300,000 Population

Pursuant to Section 320.642, Florida Statutes, Classic Motorcycles & Sidecars, Inc., intends to allow the establishment of Wala Corporation, d/b/a Vespa Jacksonville, as a dealership for the sale of TN'G scooters and Flying Tiger Motorcycles, at 1128 N. 3rd Street, Jacksonville Beach (Duval County), Florida 32250, on or after February 6, 2004.

The name and address of the dealer operator(s) and principal investor(s) of Wala Corporation, d/b/a Vespa Jacksonville are dealer operator(s) and principal investor(s): Tom Bolc, 1128 N. 3rd Street, Jacksonville Beach, FL 32250.

The notice indicates intent to establish the new point location in a county of more than 300,000 population, according to the latest population estimates of the University of Florida, Bureau of Economic and Business Research.

Certain dealerships of the same line-make may have standing, pursuant to Section 320.642, Florida Statutes, to file a petition or complaint protesting the application.

Written petitions or complaints must be received by the Department of Highway Safety and Motor Vehicles within 30 days of the date of publication of this notice and must be submitted to: Mr. Ronald D. Reynolds, Administrator, Dealer License Section, Department of Highway Safety and Motor Vehicles, Room A-312, Neil Kirkman Building, 2900 Apalachee Parkway, Tallahassee, Florida 32399-0635.

A copy of such petition or complaint must also be sent by US Mail to: Rob Gates, Director of Sales, Classic Motorcycles & Sidecars, Inc., 8146 304th Ave., S. E., Preston, WA 98050.

If no petitions or complaints are received within 30 days of the date of publication, a final order will be issued by the Department of Highway Safety and Motor Vehicles approving the establishment of the dealership, subject to the applicant's compliance with the provisions of Chapter 320, Florida Statutes.

Notice of Publication for a New Point  
Franchise Motor Vehicle Dealer in a County of More  
than 300,000 Population

Pursuant to Section 320.642, Florida Statutes, Bajaj USA LLC intends to allow the establishment of Flacycles, Inc. as a dealership for the sale of Bajaj motorscooters, at 6022 South Tamiami Trail, Sarasota (Sarasota County), Florida 34231, on or after February 1, 2004.

The name and address of the dealer operator(s) and principal investor(s) of Flacycles, Inc. are dealer operator(s) and principal investor(s): Bruce P. Freeland, 533 Laurel Cherry Lane, Venice, FL 34293.

The notice indicates intent to establish the new point location in a county of more than 300,000 population, according to the latest population estimates of the University of Florida, Bureau of Economic and Business Research.

Certain dealerships of the same line-make may have standing, pursuant to Section 320.642, Florida Statutes, to file a petition or complaint protesting the application.

Written petitions or complaints must be received by the Department of Highway Safety and Motor Vehicles within 30 days of the date of publication of this notice and must be submitted to: Mr. Ronald D. Reynolds, Administrator, Dealer License Section, Department of Highway Safety and Motor Vehicles, Room A-312, Neil Kirkman Building, 2900 Apalachee Parkway, Tallahassee, Florida 32399-0635.

A copy of such petition or complaint must also be sent by US Mail to: Albert Kolvites, Managing Member, Bajaj USA LLC, 526 Eccles Avenue, South San Francisco, CA 94080-1905.

If no petitions or complaints are received within 30 days of the date of publication, a final order will be issued by the Department of Highway Safety and Motor Vehicles approving the establishment of the dealership, subject to the applicant's compliance with the provisions of Chapter 320, Florida Statutes.

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

Pursuant to Chapter 2003-145, Laws of Florida, all notices for the Board of Trustees of the Internal Improvement Trust Fund are published on the Internet at the Department of Environmental Protection's home page at <http://www.dep.state.fl.us/> under the link or button titled "Official Notices."

**AGENCY FOR HEALTH CARE ADMINISTRATION**

CERTIFICATE OF NEED

DECISIONS ON EXPEDITED APPLICATIONS

The Agency For Health Care Administration made the following decisions on Certificate of Need applications for expedited review:

County: Duval Service District: 4  
 CON #: 9744 Decision Date: 1/29/2004 Decision: A  
 Facility/Project: Lakeshore Nursing and Rehabilitation Center  
 Applicant: Five Points Health Care, Ltd.  
 Project Description: Transfer 62 skilled nursing beds via divided CON Exemption #0300019/CON #7734  
 Approved Cost: \$2,929,980

A request for administrative hearing, if any, must be made in writing and must be actually received by this department within 21 days of the first day of publication of this notice in the Florida Administrative Weekly pursuant to Chapter 120, Florida Statutes, and Chapter 59C-1, Florida Administrative Code.

NOTICE OF LITIGATION

The Agency for Health Care Administration has received the following petitions for administrative hearings as of the close of business on January 16, 2004, concerning certificate of need decisions. A brief description of these projects is listed below. Resolution of these requests for hearings by way of a grant or denial of their certificate of need at issue will determine substantial interest of person. Those persons whose substantial interest may be determined by these proceedings including settlements, grants, and denials are advised to govern themselves accordingly and may wish to exercise rights including intervention. See Chapter 120, F.S., as well as

Section 28-5.111 and 28-5.207, F.A.C. In deference to rights of substantially affected person, AHCA will not settle or otherwise reach a final resolution of these matters for a period of 30 days from the date of the publication.

- CON# INITIAL DECISION, PROJECT, CTY, APPLICANT, PARTY REQUEST HEARING (PRH)
- 7449/
- 9105 Partial modification denial, adult cardiac catheterization lab and adult open heart surgery and angioplasty program, TCC Partners, Inc. d/b/a Cleveland Clinic Hospital, (PRH) same as applicant
- 9701 Denial, establish a 54 bed long term acute care hospital, Escambia County, Select Specialty Hospital – Escambia, Inc., (PRH) same as applicant
- 9701 Supports Denial, establish a 54 bed long term acute care hospital, Escambia County, Select Specialty Hospital – Escambia, Inc., (PRH) Sempercare Hospital of Pensacola, Inc.
- 9702 Denial, establish a 36 bed long term care hospital, Escambia County, Sempercare Hospital of Pensacola, Inc., (PRH) same as applicant
- 9702 Supports Denial, establish a 36 bed long term care hospital, Escambia County, Sempercare Hospital of Pensacola, Inc., (PRH) Select Specialty Hospital – Escambia, In.
- 9703 Denial, establish a 31 bed long term acute care hospital, Marion County, Kindred Hospitals East, LLC, (PRH) same as applicant
- 9703 Supports Denial, establish a 31 bed long term acute care hospital, Marion County, Kindred Hospitals East, LLC, (PRH) Select Specialty Hospital – Alachua, Inc.
- 9704 Denial, establish a 44 bed long term acute care hospital, Alachua County, Select Specialty Hospital – Alachua, Inc., (PRH) same as applicant
- 9704 Supports Denial, establish a 44 bed long term acute care hospital, Alachua County, Select Specialty Hospital – Alachua, Inc., (PRH) Kindred Hospitals East, LLC
- 9705 Denial, establish a 36 bed long term acute care hospital, Duval County, Select Specialty Hospital – Duval, Inc., (PRH) same as applicant
- 9705 Supports Denial, establish a 36 bed long term acute care hospital, Duval County, Select Specialty Hospital – Duval, Inc., (PRH) Sempercare Hospital of Volusia, Inc.
- 9706 Denial, establish a 43 bed long term acute care hospital, Volusia County, Sempercare Hospital of Volusia, Inc., (PRH) same as applicant
- 9706 Supports Denial, establish a 43 bed long term acute care hospital, Volusia County, Sempercare Hospital of Volusia, Inc., (PRH) Select Specialty Hospital – Duval, Inc.

- 9708 Denial, establish 20 comprehensive medical rehabilitation beds, Pinellas County, Palms of Pasadena Hospital, L. P. d/b/a Palms of Pasadena Hospital, (PRH) same as applicant
- 9709 Denial, establish a 30 bed long term care hospital, Polk County, Sempercare Hospital of Lakeland, Inc., (PRH) same as applicant
- 9709 Supports Denial, establish a 30 bed long term care hospital, Polk County, Sempercare Hospital of Lakeland, Inc., (PRH) Select Specialty Hospital – Marion, Inc.
- 9710 Denial, establish a 44 bed long term acute care hospital, Polk County, Select Specialty Hospital – Marion, Inc., (PRH) same as applicant
- 9710 Supports Denial, establish a 44 bed long term acute care hospital, Polk County, Select Specialty Hospital – Marion, Inc., (PRH) Sempercare Hospital of Lakeland, Inc.
- 9712 Denial, establish a new 55 bed adult psychiatric hospital, Lee County, Lee Behavioral Health Systems, Inc., (PRH) same as applicant
- 9714 Denial, establish a 35 bed long term care hospital, Lee County, Long Term Care Hospital of SW Florida, Inc., (PRH) same as applicant
- 9714 Supports Denial, establish a 35 bed long term care hospital, Lee County, Long Term Care Hospital of SW Florida, Inc., (PRH) Sempercare Hospital of Sarasota, Inc.
- 9714 Supports Denial, establish a 35 bed long term care hospital, Lee County, Long Term Care Hospital of SW Florida, Inc., (PRH) Select Specialty Hospital – Sarasota, Inc.
- 9714 Supports Denial, establish a 35 bed long term care hospital, Lee County, Long Term Care Hospital of SW Florida, Inc., (PRH) Select Specialty Hospital – Lee, Inc.
- 9715 Denial, establish a 60 bed long term acute care hospital, Lee County, Select Specialty Hospital – Lee, Inc., (PRH) same as applicant
- 9715 Supports Denial, establish a 60 bed long term acute care hospital, Lee County, Select Specialty Hospital – Lee, Inc., (PRH) Sempercare Hospital of Sarasota, Inc.
- 9716 Denial, establish a 44 bed long term care acute care hospital, Sarasota County, Select Specialty Hospital – Sarasota, Inc., (PRH) same as applicant
- 9716 Supports Denial, establish a 44 bed long term care acute care hospital, Sarasota County, Select Specialty Hospital – Sarasota, Inc., (PRH) Sempercare Hospital of Sarasota, Inc.
- 9717 Denial, establish a 29 bed long term acute care hospital, Sarasota County, Sempercare Hospital of Sarasota, Inc., (PRH) same as applicant
- 9717 Supports Denial, establish a 29 bed long term acute care hospital, Sarasota County, Sempercare Hospital of Sarasota, Inc., (PRH) Select Specialty Hospital – Sarasota, Inc.
- 9717 Supports Denial, establish a 29 bed long term acute care hospital, Sarasota County, Sempercare Hospital of Sarasota, Inc., (PRH) Select Specialty Hospital – Lee, Inc.
- 9718 Denial, establish a 70 bed long term acute care hospital, Palm Beach County, Kindred Hospitals East, LLC, (PRH) same as applicant
- 9718 Denial, establish a 70 bed long term acute care hospital, Palm Beach County, Kindred Hospitals East, LLC, (PRH) Select Specialty Hospital – Palm Beach, Inc.
- 9719 Denial, establish a 60 bed long term acute care hospital, Palm Beach County, Select Specialty Hospital – Palm Beach, Inc., (PRH) same as applicant
- 9719 Supports Denial, establish a 60 bed long term acute care hospital, Palm Beach County, Select Specialty Hospital – Palm Beach, Inc., (PRH) Kindred Hospitals East, LLC
- 9722 Denial, relocation of 40 existing comprehensive medical rehabilitation inpatient beds, Dade County, Villa Maria Nursing & Rehabilitation Center, Inc. d/b/a St. Catherine’s Rehabilitation Hospital (PRH) same as applicant
- 9724 Approval, addition of 10 Level II NICU beds through the delicensure of 5 Level II beds, Dade County, Public Health Trust of Miami-Dade County, Florida d/b/a Jackson Memorial Hospital, (PRH) South Miami Hospital, Inc. d/b/a South Miami Hospital
- 9725 Approval, addition of 8 Level III NICU beds through the conversion of 8 acute care beds, Dade County, Variety Children’s Hospital, Inc. d/b/a Miami Children’s Hospital, (PRH) South Miami Hospital, Inc. d/b/a South Miami Hospital
- 9726 Denial, establish a six Level III NICU, Dade County, South Miami Hospital, Inc. d/b/a South Miami Hospital, (PRH) same as applicant

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**DEPARTMENT OF ENVIRONMENTAL PROTECTION**

Pursuant to Chapter 2003-145, Laws of Florida, all notices for the Department of Environmental Protection are published on the Internet at the Department of Environmental Protection’s home page at <http://www.dep.state.fl.us/> under the link or button titled “Official Notices.”

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**DEPARTMENT OF HEALTH**

On January 30, 2004, John O. Agwunobi, M.D., M.B.A., Secretary of the Department of Health, issued an Order of Emergency Restriction with regard to the license of Armando Angulo, M.D., license number ME 63356. This Emergency Restriction Order was predicated upon the Secretary's findings of an immediate and serious danger to the public health, safety and welfare pursuant to Sections 456.073(8) and 120.60(6), Florida Statutes. The Secretary determined that this summary procedure was fair under the circumstances, in that there was no other method available to adequately protect the public.

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On February 2, 2004, John O. Agwunobi, M.D., M.B.A., Secretary of the Department of Health, issued an Order of Emergency Suspension with regard to the license of Jennifer Underhill-Adams, LPN, license number PN 5150968. This Emergency Suspension Order was predicated upon the Secretary's findings of an immediate and serious danger to the public health, safety and welfare pursuant to Sections 456.073(8) and 120.60(6), Florida Statutes. The Secretary determined that this summary procedure was fair under the circumstances, in that there was no other method available to adequately protect the public.

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On February 2, 2004, John O. Agwunobi, M.D., M.B.A., Secretary of the Department of Health, issued an Order of Emergency Suspension with regard to the license of James O'Rielly, LPN, license number PN 1330251. This Emergency Suspension Order was predicated upon the Secretary's findings of an immediate and serious danger to the public health, safety and welfare pursuant to Sections 456.073(8) and 120.60(6), Florida Statutes. The Secretary determined that this summary procedure was fair under the circumstances, in that there was no other method available to adequately protect the public.

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On February 2, 2004, John O. Agwunobi, M.D., M.B.A., Secretary of the Department of Health, issued an Order of Emergency Suspension with regard to the license of Wendy Stack, P.N, license number PN 1305991. This Emergency Suspension Order was predicated upon the Secretary's findings of an immediate and serious danger to the public health, safety and welfare pursuant to Sections 456.073(8) and 120.60(6), Florida Statutes. The Secretary determined that this summary procedure was fair under the circumstances, in that there was no other method available to adequately protect the public.

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On February 2, 2004, John O. Agwunobi, M.D., M.B.A., Secretary of the Department of Health, issued an Order of Emergency Suspension with regard to the license of Bridget Gordon, R.Ph., license number PS 20369. This Emergency Suspension Order was predicated upon the Secretary's findings of an immediate and serious danger to the public health, safety and welfare pursuant to Sections 456.073(8) and 120.60(6), Florida Statutes. The Secretary determined that this summary procedure was fair under the circumstances, in that there was no other method available to adequately protect the public.

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**DEPARTMENT OF FINANCIAL SERVICES**

Notice is hereby given that the Office of Financial Regulation has received the following applications.

Comments may be submitted to the Deputy Director, 200 East Gaines Street, Tallahassee, Florida 32399-0371, for inclusion in the official record without requesting a hearing; however, any person may request a public hearing by filing a petition with the Clerk, Legal Services Office, Office of Financial Regulation, 200 East Gaines Street, Tallahassee, Florida 32399-0379, pursuant to provisions specified in Chapter 3C-105.100, Florida Administrative Code. Petition must be received by the Clerk within twenty-one (21) days of publication of this notice (by 5:00 p.m., March 5, 2004):

APPLICATION FOR A NEW FINANCIAL INSTITUTION  
 Applicant and Proposed Location: Community Bank of Cape Coral, 61 Hancock Bridge Parkway West, Cape Coral, Florida 33991

Correspondent: David Hall, 1565 Red Cedar Drive, Fort Myers, Florida 33907

Received: January 28, 2004

Applicant and Proposed Location: Bank of Florida – Tampa Bay, 777 S. Harbour Island Boulevard, Suite 125 and 940, Tampa, Florida 33602

Correspondent: Richard Pearlman and George Iglar, 1501 Park Avenue East, Tallahassee, Florida 32301

Received: January 28, 2004

Applicant and Proposed Location: Patriot Bank, Trinity, Pasco County, Florida, 34655

Correspondent: Jack Greeley, 255 South Orange Avenue, Suite 800, Orlando, Florida 32801

Received: January 28, 2004

APPROVAL OF REFUND FOR THE FLORIDA PATIENT’S COMPENSATION FUND FOR CERTAIN OF THE FUND’S FISCAL YEARS

NOTICE IS HERBY GIVEN, pursuant to Section 766.105(3)(d), Florida Statutes, that the Office Of Insurance Regulation has received and is now reviewing the Florida Patient’s Compensation Fund’s (the “Fund”) filing that a surplus exists for certain of the Fund’s fiscal years. The filing states that the Fund requests approval to authorize the Fund to implement a refund plan for those certain Fund years, showing

that the surplus funds are available for refund. The filing states that the fund has accumulated a cash surplus that will not be needed to satisfy claims, and requests authorization for the Fund to refund to eligible members of the Fund their proportionate share of the accumulated surplus. The surplus amounts available for refund by membership year are as follows:

1975	1976	Membership	Year	\$43,499.00
1976	1977	Membership	Year	\$95,019.00
1978	1979	Membership	Year	\$574,675.00
1981	1982	Membership	Year	\$2,844,974.00
1982	1983	Membership	Year	\$355,067.00
TOTAL				\$3,913,234.00

A copy of the filing may be obtained by contacting Dennis K. Threadgill, Assistant General Counsel, Office of Insurance Regulation, Legal Services Office, 200 East Gaines Street, 612 Larson Building, Tallahassee, FL 32399-4206, (850)413-4120.

NOTICE OF RIGHTS

Section 766.105(3)(d), Florida Statutes, requires that any party substantially affected by this approval may request an appropriate proceeding, pursuant to Chapter 120, F.S. Any petition for such a proceeding shall be filed with the general counsel of the Office at the address referenced above within 21 days after the date of this publication.

## Section XIII

### Index to Rules Filed During Preceding Week

RULES FILED BETWEEN January 26, 2004  
and January 30, 2004

Rule No.	File Date	Effective Date	Proposed Vol./No.	Amended Vol./No.
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#### DEPARTMENT OF LEGAL AFFAIRS

##### Florida Election Commission

2B-1.0025	1/26/04	2/15/04	29/42	29/48
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#### DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES

##### Division of Plant Industry

5B-3.001	1/28/04	2/17/04	29/50	
5B-60.005	1/29/04	2/18/04	29/50	
5B-60.006	1/29/04	2/18/04	29/50	
5B-60.009	1/29/04	2/18/04	29/50	
5B-60.010	1/29/04	2/18/04	29/50	
5B-60.013	1/29/04	2/18/04	29/50	
5B-60.015	1/29/04	2/18/04	29/50	
5B-60.016	1/29/04	2/18/04	29/50	

#### DEPARTMENT OF TRANSPORTATION

14-114.0011	1/29/04	2/18/04	29/52	
14-116.002	1/29/04	2/18/04	29/52	

#### DEPARTMENT OF CORRECTIONS

33-602.223	1/29/04	2/18/04	29/51	
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#### WATER MANAGEMENT DISTRICTS

##### Southwest Florida Water Management District

40D-3.502	1/30/04	2/19/04	29/44	29/52
40D-3.507	1/30/04	2/19/04	29/44	
40D-4.021	1/30/04	2/19/04	29/49	
40D-4.051	1/30/04	2/19/04	29/49	
40D-4.053	1/30/04	2/19/04	29/49	
40D-4.302	1/30/04	2/19/04	29/49	
40D-4.381	1/30/04	2/19/04	29/49	
40D-40.112	1/30/04	2/19/04	29/49	
40D-40.302	1/30/04	2/19/04	29/49	
40D-40.381	1/30/04	2/19/04	29/49	
40D-400.021	1/30/04	2/19/04	29/49	
40D-400.437	1/30/04	2/19/04	29/49	
40D-400.439	1/30/04	2/19/04	29/49	
40D-400.443	1/30/04	2/19/04	29/49	
40D-400.475	1/30/04	2/19/04	29/49	

Rule No.	File Date	Effective Date	Proposed Vol./No.	Amended Vol./No.
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#### DEPARTMENT OF ELDER AFFAIRS

##### Administration of Federal Aging Programs

58A-6.003	1/30/04	2/19/04	29/46	30/1
58A-6.0051	1/30/04	2/19/04	29/46	30/1

#### AGENCY FOR HEALTH CARE ADMINISTRATION

##### Medicaid Program Office

59G-4.020	1/28/04	2/17/04	29/47	
59G-6.010	1/27/04	2/16/04	29/52	
59G-6.020	1/27/04	2/16/04	29/52	
59G-6.020	1/28/04	2/17/04	29/52	
59G-6.030	1/27/04	2/16/04	29/52	

#### DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

##### Barbers' Board

61G3-20.002	1/30/04	2/19/04	29/52	
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##### Electrical Contractors' Licensing Board

61G6-10.007	1/27/04	2/16/04	29/42	29/52
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##### Florida Real Estate Appraisal Board

61J1-2.007	1/27/04	2/16/04	29/44	
61J1-4.002	1/27/04	2/16/04	29/44	
61J1-4.007	1/27/04	2/16/04	29/44	
61J1-4.008	1/27/04	2/16/04	29/44	
61J1-4.009	1/27/04	2/16/04	29/44	
61J1-4.010	1/27/04	2/16/04	29/44	
61J1-5.001	1/27/04	2/16/04	29/44	
61J1-7.001	1/27/04	2/16/04	29/44	
61J1-7.004	1/27/04	2/16/04	29/44	

#### DEPARTMENT OF HEALTH

##### Board of Medicine

64B8-9.007	1/29/04	2/18/04	29/52	
64B8-51.001	1/26/04	2/15/04	29/43	

##### Board of Occupational Therapy

64B11-2.007	1/30/04	2/19/04	29/50	
64B11-3.005	1/30/04	2/19/04	29/50	

##### Board of Orthotists and Prosthetists

64B14-3.001	1/30/04	2/19/04	29/50	
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