

64E-6.020 Master Septic Tank Contractors.

(1) through (6) No change.

Specific Authority 489.553(3), 489.557(1) FS. Law Implemented 489.552, 489.553, 489.554 FS. History--New 2-13-97, Formerly 10D-6.0725, Amended 2-3-98, 4-21-02, 6-18-03.

64E-6.021 Issuance of Registration Certificates and Renewal.

(1) through (2) No change.

(3) A registered contractor may request inactive status. ~~Inactive registrations not renewed in five renewal cycles from the date of inactivation shall be considered null and void.~~ Persons wishing to renew an inactive registration must make application on Form DH 4076 and substantiate 12 classroom hours of approved instruction for each year the registration was considered inactive. Application must be accompanied by necessary exhibits and renewal fees. Persons holding inactive registrations for more than five renewal cycles from the date of inactivation who wish to become active may not renew the inactive registration but shall seek new registration under Rule 64E-6.019, F.A.C.

(4) No change.

(5) Approval of continuing education courses and course providers will be in accordance with the department Policy on Requirements for Continuing Education Courses and Course Providers, September 2006 July 2003, herein incorporated by reference.

(6) through (7) No change.

Specific Authority 489.553(3), 489.557(1) FS. Law Implemented 489.552, 489.553, 489.554 FS. History--New 10-25-88, Amended 3-17-92, 1-3-95, 5-14-96, 2-13-97, Formerly 10D-6.073, Amended 3-22-00, 4-21-02, 5-24-04,_____.

**Section IV
Emergency Rules**

BOARD OF TRUSTEES OF THE INTERNAL IMPROVEMENT TRUST FUND

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

DEPARTMENT OF ENVIRONMENTAL PROTECTION

Notices for the Department of Environmental Protection between December 28, 2001 and June 30, 2006, go to <http://www.dep.state.fl.us/> under the link or button titled "Official Notices."

DEPARTMENT OF JUVENILE JUSTICE

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SPECIFIC REASONS FOR FINDING AN IMMEDIATE DANGER TO THE PUBLIC, HEALTH, SAFETY OR WELFARE: The 2006 Legislature passed House Bill 5019, which became law on May 31, 2006, as chapter 2006-62, Laws of Florida. The law establishes Sheriff's Training and Respect (STAR) programs beginning on the July 1, 2006 effective date. The law required the programs be in compliance with Department rules upon their July 1, 2006 opening, and authorized the Department to utilize emergency rulemaking procedures. Emergency Rules 63EER06-17 through 63EER06-27 timely implemented the STAR program on July 1. Those rules will expire on September 28, 2006. Because permanent rules are not yet finalized, amended Emergency Rules 63EER06-44 through 63EER06-54 are necessary to ensure the safety and welfare of youths in STAR programs.

REASONS FOR CONCLUDING THAT THE PROCEDURE USED IS FAIR UNDER THE CIRCUMSTANCES: Emergency Rules 63EER06-17 through 63EER06-27 will expire on September 28, 2006. The permanent rules that will take their place have required extensive amendment, necessitating unexpected delay. Emergency Rules 63EER06-44 through 63EER06-54 incorporate the amendments that will be included in the permanent rules, and are thus the product of the workshops and hearings that have been conducted on their permanent rule counterparts. A separate hearing on these emergency rules was noticed in the September 15, 2006, Florida Administrative Weekly, and was held on September 22. The draft emergency rules were posted on the Department's website.

SUMMARY OF THE RULE: These eleven rule sections establish pre-admission, operational, programmatic, training, evaluation and release requirements governing Sheriff's Training and Respect (STAR) programs.

THE PERSON TO BE CONTACTED REGARDING THE EMERGENCY RULES IS: Clyde Benedix, Policy Development Officer, Department of Juvenile Justice, Office of Administration, 2737 Centerview Drive, Ste. 312, Tallahassee, FL 32399-3100, phone number (850)921-4116

THE FULL TEXT OF THE EMERGENCY RULE IS:

63EER06-44 Purpose and Scope.

The rule establishes pre-admission, operational, training, evaluation and release requirements governing Sheriff's Training and Respect (STAR) programs.

EFFECTIVE DATE: September 29, 2006

Specific Authority 985.3091, 985.405 FS. Law Implemented 985.3091 FS. History--New 9-29-06.

63EER06-45 Definitions.

(1) Alternative Training – authorized physical activities or extra duty assignments, which are imposed by STAR program staff following a youth's misconduct. Alternative training is intended to correct a youth's behavior by imposing minor sanctions.

(2) Critical Life Safety – a condition or conditions in facility buildings and grounds or in the operation of the program that may adversely affect the health or safety of youth and staff.

(3) Designated Health Authority – a Physician licensed under Chapters 458 or 459, F.S.

(4) Direct Care – means direct contact with youth for the purpose of providing care, supervision, custody, or control of youth in the STAR program.

(5) Extenuating Circumstances – a situation or circumstance beyond the control of the program, including but not limited to hurricanes/Acts of God, facility damage or structural problems, and situations involving a youth prior to his or her admission into the program.

(6) Intensive Mental Health Treatment – treatment for:

(a) Youth with a Diagnostic and Statistical Manual of Mental Disorders – Fourth Edition, Text Revision (DSM-IV-TR) diagnosis of: Schizophrenia or other Psychotic Disorder; Major Depression, Bipolar Disorder or other Mood Disorder; Generalized Anxiety Disorder or other Anxiety Disorder; Personality Disorder; or

(b) Youth classified as Severely Emotionally Disabled (SED) or Emotionally Handicapped (EH) by the school system; or

(c) Youth who have a psychiatric disorder that requires treatment with psychotropic medication; or

(d) Youth who have a psychiatric disorder (other than Conduct Disorder) and serious impairment in functioning as evidenced by a Global Assessment of Functioning (GAF) Scale rating of 50 or below.

(7) Minimum Thresholds - defined as at least a 60 percent performance overall rating in the department's Quality Assurance evaluation system, as referenced in 63E-6.008 (1).

(8) Obstacle Course – a strenuous exercise program, which requires youth to overcome a series of barriers and is designed to promote the development of self-confidence and physical endurance.

(9) Physical Training – a series of organized group calisthenics and exercises designed to develop the physical fitness of a youth to an optimum level.

(10) Post-residential Services Counselor – the person supervising the youth's post-commitment probation or conditional release after residential placement.

(11) Program Director – a STAR program staff member who is responsible for all aspects of the STAR program, including, but not limited to, program content, staff supervision, youth treatment and facility security.

(12) Protective Action Response Policy – the departmental policy governing staff's use of verbal and physical intervention techniques, mechanical restraints, prohibition of aerosol and chemical agents, and Tasers, as referenced in Rule Chapter 63H-1, F.A.C.

(13) Suicidal Risk History – means youth with any history of: suicide attempt; suicide gesture; intentional self-injurious behavior; suicide ideation or suicide threats.

EFFECTIVE DATE: September 29, 2006

Specific Authority 985.3091, 985.405 FS. Law Implemented 985.3091 FS. History--New 9-29-06.

63EER06-46 Admission Criteria.

(1) A youth is eligible for the STAR program if:

(a) He or she is at least 14 years of age but less than 18 years of age at the time of adjudication; and

(b) Has been committed to the department for any offense that, if committed by an adult, would be a felony other than a capital felony, a life felony, or a violent felony of the first degree.

(2) All youth referred to the STAR program shall be screened by the department to determine if they have the physical, psychological and substance abuse profile conducive to successfully completing the rigorous physical aspects and intensive behavioral management inherent in a STAR program. The screening shall include:

(a) A comprehensive physical assessment prior to admission conducted by a physician (M.D., D.O.) or physician assistant (PA) licensed under Chapter 458 or 459, F.S., or an Advanced Registered Nurse Practitioner (ARNP) licensed and certified under Chapter 464, F.S. The assessment shall include a resting electrocardiogram (EKG) to screen for baseline arrhythmias. These assessments shall assist in determining the youth's fitness for the physical demands of the program and to preliminarily screen out those youth whose health problems would prohibit them from engaging in intensive physical exercise as determined by the program's physical exercise curricula. Any youth with abnormal EKGs shall be automatically excluded;

(b) The comprehensive physical assessment and all required tests must be completed within 60 days prior to commencement of the STAR program;

(c) A preadmission comprehensive evaluation with the psychological component conducted by a licensed mental health professional or a Master's level mental health clinical staff person working under the direct supervision of a licensed mental health professional should be completed no more than six months prior to commencement of the STAR program. A mental health clinical staff person is a person providing mental health services in a DJJ facility or program who has received training in mental health assessment processes and procedures and mental health treatment strategies and techniques. A Master's level mental health clinical staff person is a person who holds a Master's degree from an accredited university or college with a major in psychology, social work, counseling or related human services field. Related human services field is one in which major course work includes the study of human behavior and development, counseling and interviewing techniques, and individual, group or family therapy. Licensed mental health professional means a board certified psychiatrist licensed pursuant to Chapter 458, F.S., a psychologist licensed pursuant to Chapter 490, F.S., a mental health counselor, clinical social worker or marriage and family therapist licensed pursuant to Chapter 491, or a psychiatric nurse as defined in Section 394.455(23), F.S. This evaluation must be completed prior to admission to screen out those youth whose mental status requires psychotropic medication interventions, who have a developmental disability as defined by an IQ less than 75 or classification as "Educable Mentally Handicapped" or "Trainable Mentally Handicapped," a need for intensive mental health treatment, reveals suicidal risk histories, a DSM-IV-TR diagnosis of substance abuse, substance dependence, poly substance dependence, substance intoxication or substance withdrawal, or indicates high-risk suicidal tendencies or history of self-injurious behavior.

(3) Within 24 hours of admission, a preadmission substance abuse screening test must be conducted or ordered by the department, with results of testing reviewed prior to admission to the STAR program.

EFFECTIVE DATE: September 29, 2006

Specific Authority 985.3091, 985.405 FS. Law Implemented 985.3091(2), (7)(a) FS. History--New 9-29-06.

63EER06-47 Admission Procedures.

(1) Youth will be placed in a STAR program within the judicial circuit where they were adjudicated, or if there is no STAR program in that circuit, they may be placed in the closest judicial circuit that has a STAR program.

(2) Program directors of STAR programs shall coordinate with the department's regional commitment management staff the admissions and release of youth to and from the STAR program.

(3) Prior to a youth being transported to the receiving STAR program, the sending region shall ensure the commitment package is in order and contains all required documents, to include but not be limited to:

(a) Department generated facesheet, including youth demographics;

(b) Current commitment order;

(c) Pre-disposition report;

(d) Summary of commitment conference; and

(e) The youth's individual healthcare record, if it exists from a prior commitment program or detention placement. The following documents shall be included in the individual healthcare record, or in the commitment packet if the individual healthcare record has not been created:

1. Current document indicating parental consent for evaluation and treatment (a signed copy of the department's Authority for Evaluation and Treatment);

2. Comprehensive physical assessment and EKG report;

3. Hard copy immunization records; and

4. Tuberculosis skin test results, unless contraindicated.

(4) The STAR program shall conduct a physical examination and substance abuse screening during admission.

(5) STAR program directors shall ensure that program staff make diligent efforts to notify the parents or guardians within 24 hours of a youth's admission into the program. Attempts to contact the family shall be documented. If contact is not made within 48 hours, the program staff shall request the youth's Juvenile Probation Officer to make the contact. In addition, a letter signed by the program director shall be sent to the parents or guardians within 48 hours of the youth's arrival at the program. The letter shall include a description of the individual program and its special characteristics, including program rules, visiting procedures and telephone procedures.

(6) Committing judges shall be sent a letter within five days of a youth's arrival indicating the youth's admission.

(7) The probation officer and Post-residential Services Counselor shall be notified in writing within five days of a youth's arrival.

EFFECTIVE DATE: September 29, 2006

Specific Authority 985.3091, 985.405 FS. Law Implemented 985.3091(2), (7) FS. History--New 9-29-06.

63EER06-48 Program Orientation.

(1) The STAR program shall conduct orientation for youth admitted to the program.

(2) The program orientation shall include, but not be limited to the following:

(a) A program daily schedule;

(b) A written, easily understandable statement, and a verbal description of youth rights and grievance procedures, including how to report abuse shall be given to the youth at the time of admission;

(c) An introduction to the STAR program concept;

(d) Explanation of program rules, disciplinary procedures and consequences, which result from the violation of program rules;

(e) A review of dress code, hygiene and grooming requirements; and

(f) Explanation of sick call procedures and access to health care services, including health care in emergency situations.

(3) Program orientation and receipt of rules shall be documented with signatures of both the youth and staff.

(4) The signed copy of the orientation and rules receipt shall be placed in the youth's file and a copy given to the youth to be kept in his or her possession.

EFFECTIVE DATE: September 29, 2006

Specific Authority 985.3091, 985.405 FS. Law Implemented 985.3091(3) FS. History—New 9-29-06.

63EER06-49 Program Components.

(1) The STAR program shall contain the following program components or services:

(a) Participation in physical training exercises, which are designed to develop optimum physical conditioning of the youth. The physical conditioning may include the use of an obstacle course;

(b) Educational and vocational services, designed to meet youth abilities, specialized needs and interests;

(c) Community service or work assignments of a productive nature;

(d) Personal development counseling, which shall include training in good decision-making, development of social adjustment skills, and life and job skills education. Counseling services shall also be provided to replace criminal thinking, beliefs and values with pro-social thinking, beliefs and values;

(e) Mental health and substance abuse counseling and services shall be provided, including alcohol and other drug abuse awareness, education, treatment or referral to treatment for youth in need of such services; and

(f) Health care services, sick call and acute and chronic medical treatment provided by the Designated Health Authority, a Physician Assistant (PA) licensed under Chapter 458 or 459, F.S., an Advanced Registered Nurse Practitioner (ARNP) licensed and certified under Chapter 464, F.S., or a Registered Nurse licensed under Chapter 464, F.S., at the level appropriate to their training.

(2) While the youth is in the program, assessment shall be made for conditional release, providing for the youth's transition back to his or her home community.

EFFECTIVE DATE: September 29, 2006

Specific Authority 985.3091, 985.405 FS. Law Implemented 985.3091(3), (4) FS. History—New 9-29-06.

63EER06-50 Behavior Management.

(1) The program's behavior management system shall be clear, emphasizing youth rights, encouraging pro-social behaviors and consequences for violations. The behavior management system shall provide a system of privileges and consequences to encourage youth to fulfill programmatic expectations.

(2) The behavior management system shall clearly state the consequences for violation of program rules. The youth shall have an opportunity to explain the questionable behavior for which behavioral consequences are being considered. Consequences shall have a direct correlation to the inappropriate behavior exhibited. It shall be clear to the youth that the corrective action taken is a logical consequence of his or her behavior. Behavior management consequences are limited to the following:

(a) Privilege suspension:

1. Privilege suspension includes denial of the use of the telephone, home visits, recreation or other special activities outside the program and in accordance with the program's written procedures. Withholding of telephone and visitation privileges shall not include depriving a youth access to his or her attorney, law enforcement, a representative of the clergy, the department's Central Communications Center, Department of Children and Families' Abuse Hotline or the Inspector General's Office.

2. Prior to any youth having a privilege suspended, the youth shall have the reason(s) for the suspension explained to him or her.

3. Privilege suspension shall not include the withholding of regular meals, clothing, sleep, health care services, mental health services, toileting facilities, hygiene necessities, school, exercise, correspondence privileges, or legal assistance.

4. All instances of privilege suspension shall be documented in the youth's individual record and in the program logbook, dated and signed by the staff implementing the discipline procedure, with the program logbook to be reviewed and signed by supervisory staff at least on a daily basis.

(b) Alternative training:

1. Alternative training measures shall be applied on a consistent basis as a behavior management tool, and shall be proportionate to the importance of the rule violation. Prior to alternative training the youth shall have the reasons for the imposition explained to him or her, and be given an opportunity to explain his or her behavior. The youth's rights shall be protected at all times during alternative training. Alternative training measures shall be documented in the program logbook, dated and signed by implementing staff and subsequently reviewed by supervisory staff on at least a daily basis, and all instances must be documented in the youth's individual record.

2. Any staff member of the STAR program has the authority to implement the following alternative training measures to youth:

a. Extra duty assignments;

b. Extra physical exercise limited to no more than 30 minutes. Staff shall intervene anytime a youth indicates that he or she is in pain and unable to perform as instructed. Anytime a staff member determines that the health or physical safety of a youth has been compromised or is potentially compromised, the staff member shall remove the youth immediately from all physical activities without prior approval from supervisory or health care staff. If the health care staff cannot determine the cause of the pain or discomfort, the youth shall be immediately transported to the emergency room; and

c. Verbal counseling directed at changing the youth's inappropriate behavior.

(c) Program restriction:

1. Program restriction is the loss of the earned privilege of leaving the program grounds for the purpose of participating in community activities except as it would restrict exercise of client rights such as school, religious observance, health and exercise needs.

2. Prior to any youth being placed on program restriction, the youth shall have the reason(s) for the restriction explained to him. The youth shall also be given an opportunity to explain his or her behavior.

3. Program restriction shall not exceed 30 days.

4. All instances of program restriction shall be documented in the program logbook, dated and signed by the staff implementing the restriction, with the program logbook to be reviewed and signed by supervisory staff at least on a daily basis.

(d) Room restriction:

1. Room restriction is the restriction of a youth to his or her room or other area designated by the program director to protect the safety of the youth. Room restriction shall be used only when a youth is dangerous to self or others or there is substantial evidence to indicate the youth is about to escape. The use of room restriction shall serve only a "cooling off" purpose and shall not exceed two hours without authorization from licensed medical or mental health professionals. Room restriction shall not exceed a total of four hours at any given time.

2. Prior to a youth being placed on room restriction, the youth shall have the reason(s) for the restriction explained to him or her. The youth shall also be given an opportunity to explain his or her behavior.

3. Meals, clothing, sleep, health care, prescribed medications, mental health services, toileting facilities, hygiene necessities, religious needs, or staff assistance shall not be denied to a youth on room restriction.

4. The staff member placing the youth on room restriction shall document the justification for room restriction.

5. When a youth is placed on room restriction, the staff member shall talk with the youth at least every 30 minutes in order to evaluate the need for continued restriction.

6. Youth on room restriction shall be visually observed (in person) by a staff member at least every 10 minutes.

7. Youth who have been assessed to be at risk of suicide shall be provided with continual sight and sound supervision and shall be referred for a mental health evaluation immediately.

8. Staff observations and contacts with the youth shall be documented in the program logbook, dated, and signed by the staff imposing the restriction, and subsequently reviewed and signed by supervisory staff on at least a daily basis. All instances must be documented in the youth's individual record.

(3) The use of harmful psychological intimidation techniques is prohibited in the STAR program.

(a) For the purpose of this section, the term "harmful psychological intimidation techniques" includes:

1. The threat of physical force or violence;

2. An intentional effort to humiliate or embarrass a child;

3. An intentional effort to diminish a child's self-confidence or otherwise psychologically break a youth's will; or

4. Any action that would be considered child abuse or neglect under Chapters 39 or 827, F.S.

(b) The term "harmful psychological intimidation techniques" does not include the following actions:

1. Direct and forceful communication to a child of program requirements or legitimate performance expectations prior to or during participation in program activities, including positive, active encouragement of children engaged in physical training exercises.

2. Communication necessary to inform a child of noncompliance with program requirements or appropriate actions to remediate such noncompliance.

3. Communication necessary to inform a child of poor performance or appropriate actions to remediate such poor performance.

4. Communications or other actions necessary to maintain order or safety in a program.

5. Any lawful and reasonable communications that are permissible for parents, other juvenile justice programs, school officials, or other adults who have custody of or supervisory responsibilities for youth.

EFFECTIVE DATE: September 29, 2006

Specific Authority 985.3091, 985.405 FS. Law Implemented 985.3091(3), (7) FS. History—New 9-29-06.

63EER06-51 Operational Inspections.

(1) Evaluations under Section 985.412(5), F.S., of each STAR program shall be conducted quarterly during the first year of the program's operation. Thereafter, if the program met

the minimum thresholds during its most recent evaluation, the program shall be evaluated at least once annually. If a sheriff's training and respect program fails to meet the minimum thresholds, the department shall cancel the contract for the program.

(a) Immediately, if the program has a deficiency in a critical life safety aspect of its operations, or has failed to train its staff as required.

(b) If the program fails to achieve compliance with the minimum thresholds within three months, unless there are documented extenuating circumstances.

(2) Upon cancellation of a contract under subsection (1), the program's operations shall immediately cease and the department shall immediately discontinue any state payments to the program.

EFFECTIVE DATE: September 29, 2006.

Specific Authority 985.3091, 985.405 FS. Law Implemented 985.3091(8) FS. History--New 9-29-06.

63EER06-52 Program Administration.

(1) The program's administration shall include, but is not limited to:

(a) Rule and contract compliance:

1. The inspection shall include operational compliance with admission criteria and screening, behavior management sanctions and privileges.

2. A contractual STAR program will comply with the terms and conditions as identified in the contract.

(b) Safety and security:

1. The STAR program shall ensure the safety and security of staff and youth, conduct security inspections and checks, and provide preventive maintenance and control of safety and security equipment.

2. The program shall develop escape prevention and escape response plans.

3. Youth at the program shall be interviewed by regional program monitors at least quarterly regarding their safety and security at the program. The interviews shall address availability of services, abuse allegations, grievances, access to treatment services, and overall treatment.

4. Departmental staff shall meet with STAR program directors to review Protective Action Response reports for trends and conditions that would indicate staff are engaging in excessive or inappropriate use of force.

(c) Treatment:

1. The STAR program shall provide youth treatment and activities, youth work assignments, physical training, delivery of specialized treatment services, and youth case management.

2. The program shall provide for visitation and family involvement, correspondence and telephone communications for the youth in the program.

3. The program shall include academic and vocational activities, life and job skills, and appropriate decision making training for the youth.

(d) Behavior management:

1. The program shall implement a behavior management system, which includes consequences, sanctions and privileges for youth.

2. The behavior management system shall not deny a youth meals, clothing, sleep, education, exercise or physical and mental health services.

(e) Medical:

1. The program shall implement access to and the delivery of medical, substance abuse and mental health services and assessments.

2. The program shall have a written suicide prevention and suicide response plan.

3. The program shall have a Designated Health Authority, who comes on site weekly to perform administrative duties and healthcare services that are beyond the scope of the nurse's training.

4. The program shall provide for medication storage, medical documentation, medication monitoring and distribution; sick call and medical appointments; "medical and mental health alerts"; management of health and mental health records and information; and control of infectious and communicable diseases.

5. Anytime the health care staff determines that the health or physical safety of a youth has been compromised or is potentially compromised, they shall remove the youth from all physical activities without prior approval from program staff. Staff shall intervene anytime a youth indicates that he or she is in pain and unable to perform as instructed. Anytime a staff member determines that the health or physical safety of a youth has been compromised or is potentially compromised, the staff member shall remove the youth immediately from all physical activities without prior approval from supervisory or health care staff. If the health care staff cannot determine the cause of the pain or discomfort the youth should be immediately transported to the emergency room.

6. Health care services must be provided daily from 7:00 a.m. to 9:00 p.m. by a Registered Nurse licensed under Chapter 464, F.S. Around-the-clock, on-call access to the Designated Health Authority, Physician Assistant (PA), or Advanced Registered Nurse Practitioner (ARNP) must be available at all other times.

7. All STAR program staff shall be CPR and First Aid certified.

8. All STAR programs shall have Automated External Defibrillators (AEDs) on site within 12 months of opening and at least one staff person on every shift shall be AED certified.

(f) Administration:

1. The program shall have a written mission statement.

2. Requirements for the prominent display of the telephone number of the statewide abuse registry and for immediate access by children in the program, upon request, to a telephone for the purpose of contacting the statewide abuse registry, the public defender's office, his or her attorney, or a law enforcement agency.

(2) All usage of PAR must be documented in accordance with Rule 63H-1.007, F.A.C.

(3) All alleged violations of PAR shall be reviewed by the department's Inspector General.

EFFECTIVE DATE: September 29, 2006

Specific Authority 985.3091, 985.405 FS. Law Implemented 985.3091(3)-(5), (7), (9) FS. History--New 9-29-06.

63EER06-53 Staff Training Requirements.

(1) All STAR program staff must complete, at a minimum, the following training requirements within 90 calendar days of that staff person's hiring date:

(a) Administrative staff must successfully complete 120 contact hours of department-approved training. A training plan must be approved by the department's Bureau of Staff Development and Training.

(b) Direct care staff who are Criminal Justice Standards and Training Commission (CJSTC) certified correctional, correctional probation or law enforcement officers under Chapter 943, F.S., will adhere to the requirements of Rule 63H-1.016, F.A.C.

(c) Direct care staff who are not certified correctional, correctional probation or law enforcement officers under Chapter 943, F.S., are to be certified in Protective Action Response and to successfully complete 200 contact hours of department approved training, which must include, but not be limited to:

1. State and federal laws relating to child abuse;
2. Adolescent behavior;
3. Behavior management;
4. Mental health issues;
5. Suicide prevention;
6. Health care;
7. Communication skills-interpersonal and verbal de-escalation skills;
8. Human diversity;
9. Cardiopulmonary resuscitation (CPR)/First Aid certification;
10. Safety;
11. Security; and
12. Emergency procedures.

(2) All department approved training courses must be taught by one or more persons who are certified as, or who have completed the necessary education and training to be, an instructor for the course being taught. A training course in

counseling techniques must be taught by a person who has at least a bachelor's degree in social work, counseling, psychology or a related field.

(3) Prior to successful completion of these training requirements, a STAR program direct care staff must be directly supervised by a person who has successfully completed the training requirements in this section.

EFFECTIVE DATE: September 29, 2006

Specific Authority 985.3091, 985.405 FS. Law Implemented 985.3091(6), (9) FS. History--New 9-29-06.

63EER06-54 Youth Release or Transfer.

(1) The program shall notify the department regarding the removal of a youth from the program if the youth becomes unmanageable or ineligible for the program due to changes in his or her physical, psychological or substance abuse profile. Preliminary notification to the department shall occur immediately if a youth has a change in physical or mental health status that warrants a:

- (a) Referral to a medical specialist;
- (b) Referral offsite for any imaging other than an x-ray;
- (c) Surgical procedures; or
- (d) Involuntary commitment (Baker Act).

(2) Prior to the release or transfer of a youth from the STAR program, the youth:

(a) Must have a physical examination performed by a licensed physician, physician assistant, or a licensed and certified Advanced Registered Nurse Practitioner. Any evidence of abuse as defined in Section 39.01(2), F.S., must be documented and immediately reported by the examiner to the statewide abuse registry and the department.

(b) Must sign an exit statement upon transfer from the residential component to the aftercare component indicating whether his or her rights were observed and whether he or she was subjected to any abuse or harmful psychological intimidation techniques. Any allegation by the youth that:

1. He or she was subjected to abuse while in the STAR program must be investigated by the department and the Department of Children and Family Services under Section 39.302, F.S.

2. His or her rights were not observed or that he or she was subjected to harmful psychological intimidation techniques or to violations of the department's Protective Action Response rule must be investigated by the department's Inspector General.

(c) The STAR program shall deliver a copy of each youth's exit statement at the time it is executed to:

1. The department either by facsimile or electronic mail.
2. The statewide abuse registry if it contains any allegation of abuse as defined in Section 39.01(2), F.S.

EFFECTIVE DATE: September 29, 2006

Specific Authority 985.3091, 985.405 FS. Law Implemented 985.3091(7), (10) FS. History–New 9-29-06.

THIS EMERGENCY RULE TAKES EFFECT IMMEDIATELY UPON BEING FILED WITH THE DEPARTMENT OF STATE.

EFFECTIVE DATE: September 29, 2006

DEPARTMENT OF JUVENILE JUSTICE

Staff Training

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63HER06-42	Training Instructor Certification Renewal
63HER06-43	Law Enforcement Operations and Partnerships

SPECIFIC REASONS FOR FINDING AN IMMEDIATE DANGER TO THE PUBLIC, HEALTH, SAFETY OR WELFARE: The 2006 Legislature passed House Bill 5019, which became law on May 31, 2006, as Chapter 2006-62, Laws of Florida. The law establishes Sheriff’s Training and Respect (STAR) programs beginning on the July 1, 2006 effective date. The law required the programs to follow the Department of Juvenile Justice’s Protective Action Response (PAR) policy established by Department rule, and authorized the Department to utilize emergency rulemaking procedures. Emergency Rules 63HER06-1 through 63HER06-16 timely implemented PAR for the opening of the STAR program, but those rules will expire on September 28, 2006. Because permanent rules are not yet finalized, amended Emergency Rules 63HER06-28 through 63HER06-43 are necessary to ensure the safety and welfare of youths in STAR programs.

REASONS FOR CONCLUDING THAT THE PROCEDURE USED IS FAIR UNDER THE CIRCUMSTANCES: Emergency Rules 63HER06-1 through 63HER06-16 will expire on September 28, 2006. The permanent rules that will take their place have required extensive amendment, necessitating unexpected delay. Emergency Rules 63HER06-28 through 63HER06-43 incorporate the

amendments that will be included in the permanent rules, and are thus the product of the workshops and hearings that have been conducted on their permanent rule counterparts. A separate hearing on these emergency rules was noticed in the September 15, 2006, Florida Administrative Weekly, and was held on September 22. The draft emergency rules were posted on the Department’s website.

SUMMARY OF THE RULE: These sixteen rule sections establish Protective Action Response (PAR) as the only authorized verbal and physical intervention program to be trained and utilized by direct care staff in state operated or contracted facilities and programs, including those such as STAR programs which are operated by law enforcement under contract with the Department. The rule defines PAR interventions including the use of mechanical restraints, and establishes PAR training and curriculum.

THE PERSON TO BE CONTACTED REGARDING THE EMERGENCY RULES IS: Clyde Benedix, Policy Development Officer, Department of Juvenile Justice, Office of Administration, 2737 Centerview Drive, Ste. 312, Tallahassee, FL 32399-3100, phone number (850)921-4116

THE FULL TEXT OF THE EMERGENCY RULES IS:

63HER06-28 Purpose and Scope.

This rule establishes a statewide framework to implement procedures governing the use of verbal and physical intervention techniques and mechanical restraints. Protective Action Response (PAR), as authorized by the department, shall be the verbal and physical intervention program trained and utilized by direct care staff in state-operated and contracted facilities and programs.

EFFECTIVE DATE: September 29, 2006

Specific Authority 985.4055, 985.405 FS. Law Implemented 985.4055 FS. History–New 9-29-06.

63HER06-29 Definitions.

(1) Active Resistance – Youth makes physically evasive movements to defeat an employee’s attempts to control; for example, bracing, or attempting to push or pull away from an employee.

(2) Actively Engaged – An employee is participating in the practical performance or application of any one of the approved physical intervention techniques or mechanical restraints.

(3) Administrator – One whose primary responsibility is overseeing the daily operations of a facility, program or probation circuit.

(4) Aggravated Resistance – Youth makes overt, hostile, attacking movements with or without a weapon with the apparent intent and apparent ability to cause death or great bodily harm to the employee, self, or others; for example, striking with a stick, banging head against the wall, or swinging a razor blade.

(5) CJSTC – Criminal Justice Standards and Training Commission.

(6) Combative Resistance – Youth makes overt, hostile, attacking movements that may cause injury.

(7) Control Techniques – Techniques used to control and/or move a youth from point A to point B with minimum effort by the employee in order to gain and retain control over the youth.

(8) Countermoves – Techniques that impede a youth's movement toward an employee or others; for example, blocking, distracting, evading, redirecting, or avoiding.

(9) Designated Health Authority – A physician who holds an active license under Chapters 458 or 459, F.S.

(10) Dialogue – A two-way, controlled, non-emotional communication between the employee and the youth aimed at problem identification and/or resolution.

(11) Direct Care – Having direct contact with youth for the purpose of providing care, supervision, custody, or control in a detention facility, delinquency program, or commitment program within any restrictiveness level, operated by the department or by a provider under contract with the department.

(12) Facility – A contracted or state-operated secure environment that provides custody, care, or confinement of youth alleged or found to have committed a violation of law. This includes, but is not limited to, secure detention, law enforcement operated facilities, and residential commitment programs.

(13) Facility Employee – Any employee who exercises direct care in a facility.

(14) Hard Mechanical Restraints – Restraint devices constructed from inflexible material; for example, metal handcuffs, leg cuffs, and waist chains.

(15) Individual Health Care Record – The compilation of all records related to a youth's medical, dental and mental health.

(16) Master PAR Instructor – An advanced, qualified instructor who assists and monitors PAR instructors in maintaining quality delivery of PAR training and evaluation for PAR certification.

(17) Mechanical Restraints – This includes hard and soft mechanical restraints as defined in this rule.

(18) Mechanical Restraints Supervision Log – The form used to document a facility employee's use of mechanical restraints as a result of a Level 3 response, as defined in subsection 63H-1.003(3), F.A.C. The Mechanical Restraints Supervision Log (revised 6/01/06) is incorporated by reference, and is available at the department's website (http://www.djj.state.fl.us/forms/sd/mechanical_restraints_supervision_log.pdf).

(19) PAR Medical Release – The form signed and dated by a licensed physician that authorizes an employee to perform the physical intervention techniques that were checked on the

Medical Status form. The PAR Medical Release (revised 8/15/03) is incorporated by reference, and is available at the department's website (http://www.djj.state.fl.us/forms/sd/par_medical_release.pdf).

(20) PAR Medical Status – The form signed and dated by a licensed physician that identifies the physical intervention techniques listed on the applicable PAR Training Plan an employee cannot perform and why. The PAR Medical Status (revised 6/01/06) is incorporated by reference, and is available at the department's website (http://www.djj.state.fl.us/forms/sd/par_medical_status.pdf).

(21) PAR Medical Review – The evaluation deemed necessary as a result of the Post PAR Interview.

(22) Passive Resistance – The youth physically refuses to comply or respond. The youth does not attempt to physically defeat the actions of the employee but refuses to obey all verbal directives.

(23) Post PAR Interview – The interview conducted by the Administrator or designee following a Level 2 or Level 3 response.

(24) Program – A contracted or state-operated non-residential environment providing supervision of youth who have been identified to receive services within the community. This includes, but is not limited to, probation, non-secure detention, home detention, juvenile assessment centers, Intensive Delinquency Diversion Services (IDDS) programs, conditional release programs, screening and intake units, and day treatment programs. This does not include prevention programs.

(25) Program Employee – Any employee who exercises direct care for a program.

(26) PAR – The department-approved verbal and physical intervention techniques and the application of mechanical restraints used in accordance with this rule, the Protective Action Response Escalation Matrix, and PAR training curricula.

(27) PAR Certification – This applies to an employee who has successfully completed PAR training as described in this rule. Only employees who are PAR trained are authorized to use PAR.

(28) PAR Escalation Matrix – The document that provides guidance as to the authorized level of response based upon the youth's level of resistance. This document articulates the five levels of resistance that may be displayed by a youth and the levels of response employees are authorized to use. The PAR Escalation Matrix (revised 6/01/06) is incorporated by reference, and is available at the department's website (http://www.djj.state.fl.us/forms/sd/par_escalation_matrix.pdf).

(29) PAR Incident Report – The form used to document the occurrence of an event where an employee has used one of the enumerated physical intervention techniques. The PAR

Incident Report (revised 6/01/06) is incorporated by reference, and is available at the department's website ([http://www.djj.state.fl.us/forms/sd/par incident report.pdf](http://www.djj.state.fl.us/forms/sd/par%20incident%20report.pdf)).

(30) PAR Performance Evaluation Forms – These forms are used to measure an employee's or PAR Instructor's ability to perform verbal and physical intervention techniques and apply mechanical restraints. The following forms are incorporated by reference and are available at the department's website listed below respectively:

(a) PAR Performance Evaluation – State operated facility/Contracted detention/ and Law Enforcement operated facility staff (revised 6/01/2006) ([http://www.djj.state.fl.us/forms/sd/par performance evaluation state operated.pdf](http://www.djj.state.fl.us/forms/sd/par%20performance%20evaluation%20state%20operated.pdf)).

(b) PAR Performance Evaluation – Contracted facility staff (revised 6/01/2006) ([http://www.djj.state.fl.us/forms/sd/par performance evaluation contracted.pdf](http://www.djj.state.fl.us/forms/sd/par%20performance%20evaluation%20contracted.pdf)).

(c) PAR Performance Evaluation – Program staff (revised 8/15/2003) ([http://www.djj.state.fl.us/forms/sd/par performance evaluation program staff.pdf](http://www.djj.state.fl.us/forms/sd/par%20performance%20evaluation%20program%20staff.pdf)).

(d) PAR Performance Evaluation – PAR Instructors (revised 6/01/2006) ([http://www.djj.state.fl.us/forms/sd/par performance evaluation instructor.pdf](http://www.djj.state.fl.us/forms/sd/par%20performance%20evaluation%20instructor.pdf)).

(31) PAR Training Plan forms – These forms identify the specific techniques that program and facility employees shall be trained to use. The identified techniques are the only techniques employees are authorized to use (except where provided in Rule 63H-1.003 and .004, F.A.C.). The PAR Training Plan – Contracted facility staff form is incorporated by reference and is available at the department's website ([http://www.djj.state.fl.us/forms/sd/par training plan.pdf](http://www.djj.state.fl.us/forms/sd/par%20training%20plan.pdf)).

(32) Soft Mechanical Restraints – Restraint devices that are made with flexible materials; for example, Velcro, nylon flex cuffs (also known as zip cuffs), and leather.

(33) Takedowns – Techniques that redirect a youth to the ground in a controlled manner in order to limit the youth's physical resistance and to facilitate the application of a restraint device, if needed.

(34) Touch – Employee uses a familiar touch when directing, or a custodial touch prior to escalating to a higher response level.

(35) Verbal Directions – Employee tells or commands a youth to engage in, or refrain from, a specific action or non-action.

(36) Verbal Resistance – Youth verbally refuses to comply with an employee's verbal attempts to control the situation.

EFFECTIVE DATE: September 29, 2006

Specific Authority 985.4055, 985.405 FS. Law Implemented 985.4055 FS. History–New 9-29-06.

63HER06-30 Authorized Levels of Response.

(1) LEVEL 1 RESPONSE – This level of employee response consists of verbal intervention techniques and shall be utilized in response to all levels of resistance by the youth.

Verbal intervention techniques shall be the initial response by an employee to resistance by a youth except where physical intervention techniques are necessary to prevent: physical harm to the youth, employee or another person; property damage; or the youth escaping or absconding from lawful supervision.

(2) LEVEL 2 RESPONSE – In this level of response, verbal attempts to diffuse a youth or situation have been exhausted, and the youth has initiated passive, active, combative, or aggravated resistance. Physical intervention techniques may encompass the use of touch, countermoves, control techniques, or takedowns as described in Rule 63H-1.004, F.A.C.

(3) LEVEL 3 RESPONSE – This level of response involves the use of mechanical restraints. The use of mechanical restraints is authorized in situations where a youth has initiated active, combative, or aggravated resistance, and in situations where a youth poses a physical threat to self, employees, or others. Rules 63H-1.005-.007, F.A.C., explain the duties and responsibilities of employees when using mechanical restraints. Rule 63H-1.004, F.A.C., describes the authorized mechanical restraint techniques for facility employees.

(4) All responses shall be commensurate with the youth's level of resistance according to the PAR Escalation Matrix and this rule.

(a) Additionally, responses shall only be used when reasonably necessary to control youth and only after all reasonable alternatives have been exhausted, including verbal persuasion, warnings, and verbal intervention techniques; or when the alternatives are considered inappropriate due to the rapid escalation of dangerous behavior.

(b) Prior authorization for the use of physical intervention techniques and mechanical restraints shall be obtained from the supervisor or acting supervisor unless doing so could result in physical harm to the youth, employee or another person, property damage, or the youth escaping or absconding from lawful supervision.

(c) PAR certified employees shall immediately report the following intervention actions to their immediate supervisor or acting supervisor, and these incidents shall be documented per Rule 63H-1.007, F.A.C.:

1. Level 2 responses including counter moves, control techniques, and takedowns.

2. Level 3 applications of soft or hard mechanical restraints.

(d) In the event a youth is armed with a weapon or firearm and there is imminent danger of bodily harm or death, facility and program employees shall, if possible, isolate or contain the youth and request emergency assistance from law enforcement if application of the PAR Escalation Matrix is insufficient to control the youth.

(e) If a youth is in the process of inflicting grave bodily harm, or possible death, upon others or self, facility and program employees shall immediately contact law enforcement. Employees are authorized to use reasonable and necessary means to stabilize the situation.

EFFECTIVE DATE: September 29, 2006

Specific Authority 985.4055, 985.405 FS. Law Implemented 985.4055(2)(a) FS. History--New 9-29-06.

63HER06-31 Authorized Techniques.

(1) Protective Action Response, as authorized by the department, shall be the verbal and physical intervention program trained and utilized by direct care staff in state-operated and contracted facilities and programs.

(2) On or before August 31, 2006, existing contracted facilities shall submit a new PAR Training Plan to the Assistant Secretary of Staff Development and Training or designee through the department's Regional Director or designee, and thereafter notice of any change to this plan shall be submitted as described above within 30 calendar days of the changes' effective date. Newly contracted facilities, except contracted detention facilities, shall submit their PAR Training Plan as described above no less than 30 calendar days prior to becoming operational. The PAR Training Plan for contracted facility employees shall specify the following:

(a) All Stance and Body Movement techniques.

1. Reactionary Gap
2. Danger Zone
3. Interview Stance
4. Ready Stance
5. Approach

(b) All Countermoves.

1. High Block
2. Mid-range – Straight Arm Blows
3. Mid-range – Roundhouse Blows
4. X Block
5. Leg Raise
6. Evasive Sidestep (with and without redirection)
7. Wrist Releases
8. Front Choke Releases
9. Bear Hug Releases
10. Bite Escape
11. Headlock Escape
12. Full Nelson Escape
13. Double Arm Lock Escape
14. Hairpull Escapes
15. Ground Defense

(c) At a minimum, one (1) Touch technique.

1. Straight Arm Escort (Extended and Close)
2. Supportive Hold: Stage 1

(d) At a minimum, four (4) Control techniques, one of which must be Ground Control.

1. Ground Control
2. Basket Hold
3. Arm Bar
4. Arm Control
5. Wrap-around
6. Team Arm Control
7. Supportive Hold: Stages 2 & 3

(e) At a minimum, three (3) Takedown techniques.

1. Straight Arm to a Takedown
2. Basket Hold to a Takedown
3. Arm Bar to a Takedown
4. Wrap-around to a Single Person Takedown
5. Wrap-around to a Team Takedown
6. Supportive Hold to a Takedown: Stages 4 & 5
7. Immediate Team Takedown

(f) The following uses of Mechanical Restraints: standing front handcuffing and uncuffing, one (1) rear handcuffing technique (standing or prone), and one (1) leg cuffing and uncuffing technique (kneeling position or hands on wall). Other uses of mechanical restraints, if authorized under Rule 63H-1.005, F.A.C., may also be specified.

(g) Searches.

(h) The Wrap Around Control technique, and the Wrap Around to a Takedown technique will not be used on pregnant youth.

(3) The PAR Training Plan for State-Operated facility employees, Law Enforcement Operated employees, and Contracted Detention employees shall specify the following:

(a) All Stance and Body Movement techniques.

(b) All Countermoves.

(c) Searches.

(d) The Straight Arm Escort – Extended and Close Positions.

(e) All Control techniques, except Supportive Hold Control.

(f) All Takedowns, except Wrap-Around to a Single Person Takedown, Wrap-Around to a Team Takedown, and Stages 4 and 5 of Supportive Hold to a Takedown.

(g) Handcuffs and Leg Cuffs.

(h) The Wrap Around Control technique will not be used on pregnant youth.

(4) Direct Care employees in law enforcement operated facilities having been dually certified in the PAR Escalation Matrix, and the CJSTC Response to Resistance Matrix shall be authorized to use the approved CJSTC tactics as outlined on the Response to Resistance Matrix when reasonably necessary to control a youth after the youth exhibits combative resistance as defined in this rule or aggressive physical resistance as (defined in CJSTC standards as overt, hostile, attacking

movements that may cause injury, but are not likely to cause death or great bodily harm), and after PAR Escalation Matrix techniques have been exhausted; or when the alternatives are considered inappropriate due to the rapid escalation of dangerous behavior. The CJSTC Response to Resistance Matrix (CJSTC Form 85, 2/7/02) is incorporated by reference, and is available from the Assistant Secretary for Staff Development at 2737 Centerview Drive, Alexander Building, Suite 1416, Tallahassee, Florida 32399. This rule does not authorize the use of, and specifically prohibits direct care employees, whether dually certified or PAR certified, from using:

(a) A Taser on a youth;

(b) Aerosol or chemical agents, including but not limited to oleoresin capsicum spray;

(c) Ammonia capsules, unless required for medical treatment of the youth by a licensed medical professional;

(5) The PAR Training Plan for Program employees shall specify:

(a) All Stance and Body Movement techniques; and

(b) All Countermoves.

(6) PAR certified facility and program employees shall only use the techniques that are specified on the applicable PAR Training Plan, and PAR certified facility employees shall only use the mechanical restraints that are specified on the applicable PAR Training Plan.

EFFECTIVE DATE: September 29, 2006

Specific Authority 985.4055, 985.405 FS. Law Implemented 985.4055(2)(a) FS. History–New 9-29-06.

63HER06-32 Authorized Mechanical Restraints.

(1) The department authorizes the use of only those mechanical restraints addressed in this rule. All mechanical restraints shall be designed and manufactured for the specific purpose of secure transport or restraint.

(2) Authorized mechanical restraints to be used within a facility are as follows: handcuffs, leg restraints, restraint belt, soft restraints, and waist chains.

(a) Handcuffs. The availability and versatility of handcuffs make their use practical in most restraint situations. Handcuffs are light, flexible, and easy to apply. Standard handcuffs, used by most law enforcement agencies, are approved for use.

(b) Restraint Belt. A restraint belt may be used with handcuffs when added security is needed. The restraint belt is a leather or nylon belt that is secured behind the back of the youth with an independent lock, buckle, or Velcro fastener. The belt is fashioned so that handcuffs secured to the front of the belt provide an alternative to restraining a youth's hands in the behind-the-back position.

(c) Leg restraints. Leg restraints are similar to handcuffs, but usually have a 15-inch chain separating the restraints. Leg restraints are typically used in conjunction with handcuffs to restrict the movement of the feet and legs.

(d) Soft restraints. Soft restraints, such as nylon flex cuffs (also known as zip cuffs), or Velcro or leather devices, are authorized for use as an alternative to hard restraints.

(e) Waist chains. Waist chains are designed to limit arm movement and keep hands visible at all times by securing them at the youth's waist. Waist chains are typically used only for transportation. There are two basic types: a nickel plated chain, usually 60 inches long with a sturdy cuff clip to permit quick attachment of handcuffs; or a similar chain with handcuffs permanently attached.

(3) The use of mechanical restraints, and the circumstances surrounding their use, shall be carefully reviewed and regularly monitored by the regional office to ensure compliance with this rule (see paragraph 63H-1.007(2)(b), F.A.C.

(4) Mechanical restraints are authorized for use while transporting youth.

(5) There are two authorized methods to use when handcuffing a youth: hands in front of the youth, and hands behind the youth's back.

(6) All facilities, except low and moderate risk facilities, shall use mechanical restraints to transport youth. Leg restraints and front handcuffing shall be used to transport. The use of handcuffs and leg restraints is not required when transporting youth residing in low and moderate-risk facilities except when a youth has demonstrated that he or she cannot be transported by less restrictive methods, and has been assessed as a security risk.

(7) Prohibited use of mechanical restraints includes the use of neck restraints, the restraint chair, and the securing of youth to a fixed object.

(8) No more than two youth may be chained or handcuffed together.

(9) A youth's legs and hands may be secured together in the front with the use of waist chains or a restraint belt, in which case the length of the chain securing the youth's legs and hands together shall not prohibit the youth from standing in a full upright position. Securing a youth's legs and hands together behind the youth's back is prohibited.

(10) If handcuffs are used on pregnant youth, they shall be cuffed in front. Leg restraints, waist chains, and the restraint belt shall not be used on pregnant youth.

(11) Except as provided herein, during transports all violent and escape risk youth shall be handcuffed with their hands in front with the use of a restraint belt or waist chains; or the hands shall be cuffed behind the back.

EFFECTIVE DATE: September 29, 2006

Specific Authority 985.4055, 985.405 FS. Law Implemented 985.4055(2)(a) FS. History–New 9-29-06.

63HER06-33 Supervision of Youth in Mechanical Restraints.

(1) Youth secured in mechanical restraints pursuant to Rule 63H-1.003, F.A.C., shall be supervised in accordance with this section.

(2) At no time will a youth be left without constant, full, and direct visual supervision by an employee. The youth shall not be placed in an upper bunk or in any position that does not permit constant, full, and direct visual supervision. Youth shall not be stripped of their clothing.

(3) Employees responsible for providing constant, full, and direct visual supervision shall have physical possession of the key to unlock the mechanical restraints.

(4) While a youth is placed in mechanical restraints, employees shall:

(a) Employ verbal intervention techniques designed to de-escalate the need for mechanical restraints.

(b) Continually monitor the youth's level of resistance, aggressiveness, and willingness to comply with instructions to determine whether removal of restraints is safe and advisable.

(c) Conduct breathing and circulation checks at ten-minute intervals. These ten-minute checks shall be documented on the Mechanical Restraints Supervision Log.

(5) If a restrained youth continues to exhibit negative, hostile, and/or aggressive behavior so that removal of mechanical restraints is unsafe, the supervisor or acting supervisor shall interview the youth and decide if it is safe to remove the mechanical restraints. This interview shall occur no more than 30 minutes after the youth is placed in restraints. If it is decided that it is unsafe to remove the restraints, the supervisor or acting supervisor shall document the decision on the Mechanical Restraints Supervision Log. If authorization is obtained from the Superintendent, Residential Program Director, or designee to continue the use of restraints, another interview shall occur no more than one (1) hour after the youth was placed in restraints. Each time the decision is made that it is unsafe to remove the restraints, the decision shall be documented as described above.

(6) Authorization Requirements:

(a) A youth may remain in mechanical restraints up to 60 minutes with the supervisor's or acting supervisor's authorization.

(b) In order to keep the youth in mechanical restraints for 60 to 120 minutes, the supervisor or acting supervisor shall obtain authorization from the Superintendent, Residential Program Director, or designee who shall first consult with a licensed medical and/or mental health professional before authorizing additional time. This authorization shall be obtained within the initial 60-minute timeframe. This consultation and authorization shall be documented on the Mechanical Restraints Supervision Log by specifying the name of the professional who was consulted, the time contacted, and the amount of time authorized.

(c) In order to keep the youth in mechanical restraints beyond 120 minutes, the same procedures apply as described in paragraph (b) above for each subsequent 60-minute timeframe.

(7) If at any point during the restraint it is determined that transportation to an appropriate treatment center is necessary, the supervisor or acting supervisor shall request verbal authorization from the Superintendent, Residential Program Director, or designee to initiate procedures to transport the youth. This verbal authorization and the time the authorization was received shall be documented on the Mechanical Restraints Supervision Log. The licensed medical or mental health professional may come to the facility or the youth may be transported to an appropriate treatment center.

(8) If a youth is being transported to a mental health facility, the facility shall be telephoned in advance that the youth is being transported.

EFFECTIVE DATE: September 29, 2006

Specific Authority 985.4055, 985.405 FS. Law Implemented 985.4055(2)(a) FS. History—New 9-29-06.

63HER06-34 Documentation and Retention of Records.(1) Documentation:

(a) A PAR Report shall be completed after an incident involving the use of countermoves, control techniques, takedowns, or application of mechanical restraints.

(b) The employees who were engaged with the youth shall complete the PAR Report and shall complete it no later than the end of the employee's workday.

(c) When mechanical restraints are used as a result of a level 3 response, the Mechanical Restraints Supervision Log shall be completed.

(d) All reports of incidents in which employees are trained in the use of CJSTC techniques shall be completed according to the facility's reporting documentation procedures.

(2) Review and Retention of Records:

(a) The PAR Incident Report shall be reviewed by the administrator or designee within 72-hours of the incident, excluding weekends and holidays.

(b) A monthly summary of all PAR Incident Reports shall be submitted to the regional director or designee within two weeks of the end of each month.

(c) Post PAR Interview: The administrator or designee shall interview the youth. The purpose of the interview is to determine if a youth has any physical complaints, any visible injuries, is unable to answer questions appropriately, is not fully alert, appears short of breath or distressed in any way, or demonstrates anything else of concern to the interviewer, then a PAR Medical Review is mandatory. This interview must be conducted as soon as possible, but no longer than thirty minutes after the incident. The findings of the interview shall be placed in the youth's individual health care record, and

labeled "Post PAR Interview" and shall be dated, timed, and signed by the individual conducting the interview. This individual shall also sign and date the PAR Report.

(d) PAR Medical Review:

1. If the Post PAR Interview indicates the need for a PAR Medical Review the youth shall be referred to the licensed medical health professional (Physician, Physician Assistant, Advanced Registered Nurse Practitioner, Registered Nurse, or Licensed Practical Nurse) on site. If a medical health professional is not on site, then the youth must be sent off site for this evaluation.

2. The purpose of the Medical Review is to determine, from a medical perspective, if injuries or complications occurred as a result of the physical intervention or application of mechanical restraints, and if the youth requires further medical treatment.

3. Descriptions of injuries or complications and medical treatment provided shall be filed in the youth's individual health care record.

4. If an onsite review is conducted, the documentation shall be labeled, "PAR Medical Review." If an offsite review is conducted, the youth's individual health care record and medication administration record shall accompany the youth to the review. Prior to placing the documentation in the individual health care record, the top of each page returned by the reviewer shall be dated and labeled, with "PAR Medical Review."

(e) The supervisor or designee shall review the PAR Incident Report, including the Post PAR Interview and the PAR Medical Review prior to the report being submitted to the Administrator or designee.

(f) The Administrator shall establish and maintain a centralized file, which shall include:

1. PAR Incident Reports, and attachments to the PAR Incident Report.

2. Any other incident reports or investigative reports related to the application of physical intervention techniques and/or mechanical restraints.

3. A copy of the PAR Report shall be placed in the facility's or program's centralized file within 48 hours of being signed by the Administrator.

(g) Facilities/Programs shall retain a copy of the PAR Incident Report for three (3) years following the youth's release.

EFFECTIVE DATE: September 29, 2006

Specific Authority 985.4055, 985.405 FS. Law Implemented 985.4055(2)(a) FS. History—New 9-29-06.

63HER06-35 Medical Requirements for Training.

(1) The following provisions apply to the Medical Status form:

(a) If an employee has a medical condition that they believe will prohibit performance of one or more physical intervention techniques, the employee shall submit the Medical Status form attached to this rule to his or her licensed physician for completion. The physician shall specify the date by which he or she anticipates that the employee will be able to perform the techniques, or shall specify that the employee is permanently unable to perform the techniques. If the employee is permanently unable to perform the techniques, he or she will no longer be eligible to work in a direct care position.

(b) The employee's physician shall be provided with a description or a video of the techniques by the employee's facility, program or circuit office.

(c) Upon completion by the physician, the employee shall submit the Medical Status form to the Administrator. The Administrator shall have the authority to take necessary and appropriate personnel action based upon his or her review of the form or if the Medical Status form is not submitted within 45 calendar days.

(2) Upon expiration of the date specified on the Medical Status form or when an employee is able to perform the specified physical intervention techniques, whichever is earlier, the employee shall submit the Medical Release form attached to this rule to his or her licensed physician for completion. Upon completion by the physician, the employee shall submit the Medical Release form within 10 working days. If a sending facility/program has an employee who previously attended a PAR training course and who was on Medical Status, the facility/program shall notify the PAR Instructor that the employee has been issued a Medical Release and is eligible to practice and be evaluated on the physical intervention techniques.

(3) Medical Status and Medical Release forms, or copies thereof, are confidential records and shall be maintained in accordance with state Personnel rules, or if a contracted facility or program, in accordance with the organization's applicable policy. The Medical Status and Medical Release forms shall not be submitted to the PAR Instructor.

EFFECTIVE DATE: September 29, 2006

Specific Authority 985.4055, 985.405 FS. Law Implemented 985.4055(2)(b) FS. History—New 9-29-06.

63HER06-36 Certification.

(1) Any employee not PAR Certified prior to 7/01/2006 shall be required to become PAR certified by 9/30/2006.

(2) Any employee hired on or after 7/01/2006, must become PAR certified within 90 calendar days following his or her date of hire.

(3) Any employee who exercises direct care prior to receiving PAR certification must be directly supervised by an employee who is PAR certified.

(4) Employees shall be PAR certified by successfully completing the PAR training designed for facility or program employees, whichever is applicable. Successful completion requires:

(a) Attendance and participation in the training hours specified in the employee's PAR curriculum (40 hours for Facility employees and 32 hours for Program employees). Employees shall participate in the performance of all physical intervention techniques and mechanical restraints being taught during the training session.

(b) A minimum score of seventy-five percent (75%) on the PAR written examination.

(c) One-hundred percent (100%) satisfactory performance of the techniques specified on the applicable PAR Performance Evaluation form.

(5) All PAR training must be conducted by a certified PAR Instructor (Rule 63H-1.014, F.A.C.).

(6) To ensure that all employees are properly observed, are able to receive constructive feedback, and are properly evaluated, the instructor to employee ratio, for employees who are actively engaged, shall be no more than 1:8 during the performance-based segment of a PAR training session. There is no required ratio during the non performance-based segment of a PAR training session.

EFFECTIVE DATE: September 29, 2006

Specific Authority 985.4055, 985.405 FS. Law Implemented 985.4055(2)(b), (e) FS. History—New 9-29-06.

63HER06-37 Cross-Over Training.

(1) A PAR certified employee who crosses over from a program position to a facility position, or vice versa, shall successfully complete all objectives of the PAR certification curriculum applicable to his or her new position which are not duplicative of the PAR certification objectives previously completed by the employee. Such completion must occur within 90 calendar days following the employee's cross-over date.

(2) When a state-operated or contracted facility hires a PAR certified facility employee who was trained under a different PAR Training Plan, a PAR Instructor shall train the employee, and evaluate the employee's performance on any techniques that the employee has not been trained to perform. The employee is not required to re-take the written PAR examination. The PAR Instructor shall use the PAR Performance Evaluation for facility employees. If the employee is unable to perform the new techniques, after remediation, the employee shall not be considered PAR certified for purpose of his or her employment in the new facility or program.

(3) When a PAR Performance Evaluation is completed for PAR certification or PAR Instructor certification, a copy shall be provided to the exam administrator at the written

examination site. For PAR Train-the-Trainer courses, a copy of the PAR Instructor Skills Evaluation form shall also be provided to the exam administrator.

(a) If the PAR Performance Evaluation or PAR Instructor Skills Evaluation forms cannot be completed prior to the written examination, it shall be submitted to the Assistant Secretary of Staff Development and Training as soon as possible after completion.

(b) The PAR Performance Evaluation shall be submitted for everyone regardless of whether they passed or failed the evaluation or have a Medical Status form.

(4) Law enforcement operated facility employees certified as Law enforcement, Correctional, or Detention officers by CJSTC are governed by Rule 63H-1.016, F.A.C.

EFFECTIVE DATE: September 29, 2006

Specific Authority 985.4055, 985.405 FS. Law Implemented 985.4055(2)(b) FS. History—New 9-29-06.

63HER06-38 Rehired Employee Training.

(1) Employees who resign from their employment with the department or contracted facility or program and are subsequently re-hired shall have their PAR certification reinstated by successfully completing PAR training for facility or program employees, whichever is applicable. This paragraph is applicable only if the employee has failed to timely and successfully complete the annual in-service training requirement addressed in this section prior to terminating employment.

(2) If an employee is rehired within 12 calendar months of termination and has successfully completed the annual in-service requirements, the employee's PAR Certification is current.

(3) If an employee is rehired after 12 calendar months of termination, the employee must satisfy the following requirements:

(a) Attend a minimum of 8 hours of remedial training, and

(b) Obtain 100% satisfactory performance of the techniques specified on the employee's PAR Training Plan using the PAR Performance Evaluation.

EFFECTIVE DATE: September 29, 2006

Specific Authority 985.4055, 985.405 FS. Law Implemented 985.4055(2)(b) FS. History—New 9-29-06.

63HER06-39 Annual Training Requirement.

(1) All employees shall complete a minimum of eight (8) hours of annual in-service training.

(2) The annual in-service training shall include, at a minimum, the following:

(a) A review of this rule, including revisions, and other facility or program PAR administrative procedures.

(b) Instructions on how and when to properly complete the PAR Report.

(c) Practice of all physical intervention techniques checked on the applicable PAR Training Plan and, at a minimum, practice in the use of all mechanical restraints authorized by the facility's PAR Training Plan.

(3) Successful completion of the annual in-service training requires 100 percent attendance and participation in the training program. The training hours do not have to be consecutive. If a facility or program employee fails to successfully complete this annual in-service training within twelve (12) months of their last PAR Training, they will no longer be authorized to use Level 2 or Level 3 Responses, and must attend a minimum of 8 hours of remedial training, to include 100 percent satisfactory performance of the techniques specified on the employee's PAR Training Plan using the PAR Performance Evaluation.

EFFECTIVE DATE: September 29, 2006

Specific Authority 985.4055, 985.405 FS, Law Implemented 985.4055(2)(b) FS. History—New 9-29-06.

63HER06-40 Testing Requirements.

(1) If a candidate fails the PAR written examination, they are only required to attend the remedial classroom training.

(2) PAR Instructors shall conduct a practical examination utilizing the applicable PAR Performance Evaluation to evaluate a facility or program employee's ability to perform verbal intervention techniques and the physical intervention techniques and mechanical restraints that are specified on the PAR Training Plan.

(a) If a PAR Instructor candidate or facility or program employee fails the PAR Performance Evaluation, the PAR Instructor candidate or employee is considered to only have failed the performance evaluation, not the written evaluation. Therefore, when remedial training is provided, the PAR Instructor candidate or employee is only required to attend the performance-based segment of the training.

(b) Test candidates shall have no more than three (3) attempts to pass the written exam. Accommodations based upon the Americans with Disabilities Act will be made as necessary.

(c) Test candidates shall adhere to the following schedule for second and third attempts to pass the written exam:

1. The second attempt shall occur no less than 3 calendar days after and no more than 45 calendar days after the first attempt.

2. The third attempt shall occur no less than 21 calendar days after and no more than 45 calendar days after the second attempt.

(3) For annual in-service training, use of the PAR Performance Evaluation is not required.

(4) One PAR Performance Evaluation form shall be used for each attempt that a facility or program employee makes to pass the performance evaluation. The term, "attempt," is described below.

(a) ATTEMPT 1: If an employee fails one (1) to three (3) techniques, the PAR Instructor shall remediate and re-evaluate the employee on the failed techniques. Upon conclusion of the employee's performance of the remediated techniques, this shall be the employee's first attempt at passing the evaluation. If the s-employee fails to satisfactorily demonstrate the failed techniques after remediation, the employee shall attend remediation on a different date for Attempt 2 and at that time shall be evaluated on the failed techniques. An employee who fails four (4) or more techniques on Attempt 1 shall attend remediation on a different date for Attempt 2 and at that time shall be evaluated on the failed techniques.

(b) ATTEMPT 2: If an employee fails one (1) to three (3) techniques, the PAR Instructor shall remediate and re-evaluate the employees on the failed techniques. Upon conclusion of the employee's performance of the remediated techniques, this shall be the employee's second attempt at passing the evaluation. If the employee fails to satisfactorily demonstrate the failed techniques after remediation, the employee shall attend remediation on a different date for Attempt 3 and at that time shall be evaluated on the failed techniques. An employee who fails four (4) or more techniques on Attempt 2 shall attend remediation on a different date for Attempt 3 and at that time shall be evaluated on the failed techniques.

(c) ATTEMPT 3: If an employee fails one (1) to three (3) techniques, the PAR Instructor shall remediate and re-evaluate the employee on the failed techniques. Upon conclusion of the employee's performance of the remediated techniques, this shall be the employee's third attempt at passing the evaluation. If the employee fails to satisfactorily demonstrate the failed techniques after remediation, the employee is considered to have failed his or her third attempt. An employee who fails four (4) or more techniques on Attempt 3 shall not have an opportunity to receive remediation and is considered to have failed his or her third attempt.

(5) Program employees shall be evaluated, using the PAR Performance Evaluation for Program employees, on all physical intervention techniques that are specified in the PAR Training Plan for Program employees.

(6) State-Operated facility employees, Law Enforcement operated facility employees and contracted detention facility employees shall be evaluated, using the PAR Performance Evaluation for State-Operated facility employees/Law enforcement operated employees/Contracted Detention Facility employees, on various physical intervention techniques specified on the PAR Training Plan for State-Operated facility employees/Contracted Detention Facility employees, using the following guidelines:

(a) All Stance and Body Movement techniques;

(b) All Countermoves;

(c) The Straight Arm Escort – Extended and Close Positions;

(d) Three (3) Control techniques, as selected by the employee;

(e) Three (3) Takedown techniques, as selected by the employee;

(f) Three Mechanical Restraint techniques, as selected by the employee. The techniques selected shall include front handcuffing and uncuffing, one (1) rear handcuffing and uncuffing technique (standing or prone), and one (1) leg cuffing and uncuffing technique (kneeling position or hands on wall); and

(g) Searches.

(7) Contracted facility employees, shall be evaluated using the PAR Performance Evaluation for Contracted Facility employees, on various physical intervention techniques specified on the employee's PAR Training Plan for Contracted Facility employees, using the following guidelines:

(a) All Stance and Body Movement techniques;

(b) All Countermoves;

(c) One (1) Touch technique, as selected by the employee;

(d) Three (3) Control techniques, as selected by the employee;

(e) Three (3) Takedown techniques, as selected by the employee;

(f) Three Mechanical Restraint techniques, as selected by the employee. The techniques selected shall include one (1) front handcuffing and uncuffing technique, one (1) rear handcuffing and uncuffing technique (standing or prone), and one (1) leg cuffing and uncuffing technique (kneeling position or hands on wall); and

(g) Searches.

EFFECTIVE DATE: September 29, 2006

Specific Authority 985.4055, 985.405 FS. Law Implemented 985.4055(2)(b) FS. History--New 9-29-06.

63HER06-41 Training Instructor Qualifications.

(1) PAR Instructor Candidate requirements:

(a) One year of experience, working full time, in juvenile justice, criminal justice, or juvenile social services;

(b) PAR certification;

(c) Successful completion of the Instructor Techniques Workshop 80-hour course; and

(d) Successful completion of the PAR Train-the-Trainer 80-hour course conducted by a Master PAR Instructor. An instructor candidate shall be allowed to attend a PAR Train-the-Trainer course only if he or she has achieved the requirements in paragraphs (a), (b), and (c).

(e) PAR Instructor candidates shall demonstrate proficiency for all physical intervention techniques and mechanical restraints listed on the PAR Instructor Performance Evaluation form. In addition, the Instructor candidate must demonstrate the ability to verbally communicate how the

techniques are to be performed. The demonstration shall be evaluated by one Master PAR Instructor and one PAR Instructor.

(f) Satisfactory demonstration of presentation skills using the PAR Instructor Skills Evaluation form. The PAR Instructor Skills Evaluation form (revised 6/01/06) is incorporated by reference, and is available at the department's website ([http://www.djj.state.fl.us/forms/sd/par performance evaluation on.pdf](http://www.djj.state.fl.us/forms/sd/par_performance_evaluation.pdf)).

(2) A score of 85 percent or higher on the PAR written examination. The instructor candidate shall have two attempts to pass the examination.

(3) One PAR Performance Evaluation for PAR Instructors form shall be used for each attempt that the instructor candidate makes to pass the performance evaluation. The instructor candidate shall have two attempts to pass the evaluation.

(a) If remediation is required, the Master PAR Instructor shall have the discretion to determine whether remediation will be conducted on-site or at a future date. If remediation occurs at a future date, the instructor candidate shall be evaluated, at the second attempt, on all techniques initially evaluated.

(b) If the instructor candidate fails the second attempt, he or she shall not be certified as a PAR Instructor. However, this candidate is eligible to attend the PAR Train-the-Trainer course again, provided all other criteria for becoming a PAR Instructor remain current.

(4) Demonstrations of the physical intervention techniques and presentation skills shall be videotaped. The videotapes shall be submitted to the Assistant Secretary for Staff Development and Training within thirty (30) working days after completion of the evaluations.

EFFECTIVE DATE: September 29, 2006

Specific Authority 985.4055, 985.405 FS. Law Implemented 985.4055(2)(c) FS. History--New 9-29-06.

63HER06-42 Training Instructor Certification Renewal.

(1) PAR instructors must conduct 20 hours of PAR training annually to maintain certification. Failure to meet this requirement will necessitate remedial training conducted by a Master PAR instructor.

(2) Instructors must attend and participate in a 16-hour in-service training program once every four years as conducted by a Master PAR Instructor to include a review of this rule and demonstration of the physical intervention techniques.

EFFECTIVE DATE: September 29, 2006

Specific Authority 985.4055, 985.405 FS. Law Implemented 985.4055(2)(c) FS. History--New 9-29-06.

63HER06-43 Law Enforcement Operations and Partnerships.

(1) All Law Enforcement/Correction/Detention employees must complete, at a minimum, the following training requirements within 90 calendar days of either the employee's hire date or the effective date of this rule, whichever is later:

(a) Direct care employees who are certified correctional, correctional probation or law enforcement officers under Chapter 943, F.S., are to successfully complete PAR crossover training for law enforcement personnel. Successful completion requires:

1. Attendance and participation in a minimum of twenty (20) hours of PAR Training.

2. A minimum score of seventy-five percent (75%) on the written examination.

3. One-hundred percent (100%) satisfactory performance on the techniques specified on the applicable PAR Performance Evaluation form.

(b) Direct care employees who are not certified correctional, correctional probation or law enforcement officers under Chapter 943, F.S., are to be certified in PAR.

(2) CJSTC certified employees and non-CJSTC certified employees shall adhere to the annual training requirements set forth in Rule 63H-1.012, F.A.C., for facility employees.

(3) All Law Enforcement operated facilities or programs shall submit a PAR Training Plan in accordance with Rule 63H-1.004, F.A.C.

(4) Facilities or programs that are required to have PAR certified employees must certify employees within the timeframes set forth herein.

EFFECTIVE DATE: September 29, 2006

Specific Authority 985.4055, 985.405 FS. Law Implemented 985.4055(2)(d) FS. History—New 9-29-06.

THIS EMERGENCY RULE TAKES EFFECT IMMEDIATELY UPON BEING FILED WITH THE DEPARTMENT OF STATE.

EFFECTIVE DATE: September 29, 2006

Section V Petitions and Dispositions Regarding Rule Variance or Waiver

DEPARTMENT OF COMMUNITY AFFAIRS

NOTICE IS HEREBY GIVEN that the Department of Community Affairs received a Petition for Waiver on August 15, 2006, from the City of Starke. The petitioner seeks a waiver of paragraph 9B-43.0041(1)(b), Fla. Admin. Code, so that the Petitioner will be permitted to submit corrected survey

data on the “very low income” households in its proposed service area. The petition for waiver is being applied for under Section 120.542, F.S.

A copy of the Petition, which has been assigned the number DCA06-WAI-235, 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 the Department of Community Affairs received a Petition for Waiver on September 25, 2006, from the Town of Jennings. The petitioner seeks a waiver of paragraph 9B-43.0041(1)(b), Fla. Admin. Code, so that the Petitioner will be permitted to submit corrected survey data on the “very low income” households in its proposed service area. The petition for waiver is being applied for under Chapter 120.542, F.S.

A copy of the Petition, which has been assigned the number DCA06-WAI-236, 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

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

PUBLIC SERVICE COMMISSION

NOTICE IS HEREBY GIVEN by the Florida Public Service Commission that Central Sumter Utility Company, L.L.C.’s petition for a temporary waiver of Rules 25-30.033(1)(k), (r), (t), (w), (v), and (w), Florida Administrative Code, in Docket No. 050192-WS, In re: Application for certificates to provide water and wastewater service in Sumter County by Central Sumter Utility Company, L.L.C., filed April 19, 2005, was approved by the Commission by Order No. PSC-05-0844-PAA-WS, issued August 18, 2005, and consummated by Order No. PSC-05-0899-CO-WS, issued September 12, 2005. The rule addresses information required for setting initial rates in original water and wastewater certificate proceedings. The petitioner requested that the rule be waived temporarily to permit bifurcation of the certification proceeding. The petition was approved on the basis that the purpose of the underlying statute would be achieved by other means and application of the rule would create substantial hardship. Notice of the petition was published in the F.A.W. on May 13, 2005. A copy of the Order can be obtained from the