

Section III
Notices of Changes, Corrections and
Withdrawals

DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES

Division of Food Safety

RULE NO.: RULE TITLE:
5K-4.027 Standard of Identity – Honey

NOTICE OF WITHDRAWAL

Notice is hereby given that the above rule, as noticed in Vol. 34, No. 50, December 12, 2008 issue of the Florida Administrative Weekly has been withdrawn.

DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES

Division of Food Safety

RULE NO.: RULE TITLE:
5K-4.028 Adulteration and Misbranding –
 Honey

NOTICE OF WITHDRAWAL

Notice is hereby given that the above rule, as noticed in Vol. 34, No. 50, December 12, 2008 issue of the Florida Administrative Weekly has been withdrawn.

DEPARTMENT OF EDUCATION

State Board of Education

RULE NO.: RULE TITLE:
6A-6.03018 Exceptional Education Eligibility for
 Students with Specific Learning
 Disabilities

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. 34, No. 38, September 19, 2008 issue of the Florida Administrative Weekly.

The State Board of Education approved the rule on January 21, 2009, with the following changes:

6A-6.03018 Exceptional Education Eligibility ~~Special Programs~~ for Students with Specific Learning Disabilities.

(1) Definition. A specific learning disability is defined as a disorder in one or more of the basic learning processes involved in understanding or in using language, spoken or written, that may manifest in significant difficulties affecting the ability to listen, speak, read, write, spell, or do mathematics. Associated conditions may include, but are not limited to, dyslexia, dyscalculia, dysgraphia, or developmental aphasia. A specific learning disability does not include learning problems that are primarily the result of a visual, hearing,

motor, intellectual, or emotional/behavioral disability, limited English proficiency, or environmental, cultural, or economic factors.

(2) General education intervention procedures and activities. In order to ensure that lack of academic progress is not due to lack of appropriate instruction, a group of qualified personnel must consider:

(a) Data that demonstrate that the student was provided well-delivered scientific, research-based instruction and interventions addressing the identified area(s) of concern and appropriate instruction delivered by qualified personnel in general education settings; and

(b) Data-based documentation, which was provided to the student’s parent(s) or guardian(s), of repeated measures of achievement at reasonable intervals, graphically reflecting the student’s response to intervention during instruction.

(c) General education activities and interventions conducted prior to referral in accordance with subsection 6A-6.0331(1)(2), F.A.C., may be used to satisfy the requirements of paragraphs (2)(a) and (2)(b) of this rule.

(3) Evaluation. The evaluation procedures shall include the following:

(a) The school district must promptly request parental or guardian consent to conduct an evaluation to determine if the student needs specially designed instruction in the following circumstances:

1. The student does not make adequate progress when:

a. Prior to a referral, the student has not made adequate progress after an appropriate period of time when provided appropriate instruction and intense, individualized interventions; or

b. Prior to referral, intensive interventions are demonstrated to be effective but require sustained and substantial effort that may include the provision of specially designed instruction and related services; and

2. Whenever a referral is made to conduct an evaluation to determine the student’s need for specially designed instruction and the existence of a disability.

(b) In addition to the procedures identified in Rule 6A-6.0331(5)(4), F.A.C., the evaluation must also include the procedures identified in the district’s Policies and Procedures for the Provision of Specially Designed Instruction and Related Services for Exceptional Students as required by Rule 6A-6.03411, F.A.C. The evaluation must adhere to the timeframe required by Rule 6A-6.0331(3)(d)(4)(b), F.A.C., unless extended by mutual written agreement of the student’s parent(s) or guardian(s) and a group of qualified professionals.

(4) Criteria for eligibility. A student meets the eligibility criteria as a student with a specific learning disability if all of the following criteria are met.

(a) Evidence of specific learning disability. The student's parent(s) or guardian(s) and group of qualified personnel may determine that a student has a specific learning disability if there is evidence of each of the following:

1. When provided with learning experiences and instruction appropriate for the student's chronological age or grade level standards pursuant to Rule 6A-1.09401, F.A.C., the student does not achieve adequately for the student's chronological age or does not meet grade-level standards as adopted in Rule 6A-1.09401, F.A.C., in one or more of the following areas based on the review of multiple sources which may include group and/or individual criterion or norm-referenced measures, including individual diagnostic procedures:

- a. Oral expression;
- b. Listening comprehension;
- c. Written expression;
- d. Basic reading skills;
- e. Reading fluency skills;
- f. Reading comprehension;
- g. Mathematics calculation; or
- h. Mathematics problem solving.

2. The student does not make adequate progress to meet chronological age or grade-level standards adopted in Rule 6A-1.09401, F.A.C., in one or more of the areas identified in subparagraph (4)(a)1. of this rule when using one of the following processes:

a. A process based on the student's response to scientific, research-based intervention, consistent with the comprehensive evaluation procedures in subsection (5) of Rule 6A-6.0331, F.A.C.; or

b. A process based on the student's response to scientific, research-based intervention, and the student exhibits a pattern of strengths and weaknesses in performance, achievement, or both, relative to age, grade level standards pursuant to Rule 6A-1.09401, F.A.C., or intellectual development, that is determined by the group to be relevant to the identification of a specific learning disability, using appropriate assessments, consistent with the comprehensive evaluation procedures in subsection (5) of Rule 6A-6.0331(4), F.A.C.

3. The group determines that its findings under paragraph (a) of this subsection are not primarily the result of the following:

- a. A visual, hearing, or motor disability;
- b. Intellectual disability;
- c. Emotional/behavioral disability;
- d. Cultural factors;
- e. Irregular pattern of attendance and/or high mobility rate;
- f. Classroom behavior;
- g. Environmental or economic factors; or
- h. Limited English proficiency.

(b) Members of the group determining eligibility. The determination of whether a student suspected of having a specific learning disability is a student who demonstrates a need for specially designed instruction and related services and meets the eligibility criteria must be made by the student's parents or guardians and a group of qualified professionals, which must include, but are not limited to, all of the following:

1. The student's general education teacher; if the student does not have a general education teacher, a general education teacher qualified to teach a student of his or her chronological age;

2. At least one person qualified to conduct and interpret individual diagnostic examinations of students, including, but not limited to, a school psychologist, speech-language pathologist, or reading specialist; and,

3. The district administrator of exceptional student education or designee.

(c) Observation requirement. In determining whether a student needs specially designed instruction and has a specific learning disability, and in order to document the relationship between the student's classroom behavior and academic performance, the group must:

1. Use information from an observation in routine classroom instruction and monitoring of the student's performance that was completed before referral for an evaluation; or

2. Have at least one member of the group conduct an observation of the student's performance in the student's typical learning environment, or in an environment appropriate for a student of that chronological age, after referral for an evaluation and parental or guardian consent has been obtained.

(5) Documentation of determination of eligibility. For a student suspected of having a specific learning disability, the documentation of the determination of eligibility must include a written summary of the group's analysis of the data that incorporates the following information:

(a) The basis for making the determination, including an assurance that the determination has been made in accordance with subsection (6) of Rule 6A-6.0331(5), F.A.C.;

(b) Noted behavior during the observation of the student and the relationship of that behavior to the student's academic functioning;

(c) The educationally relevant medical findings, if any;

(d) Whether the student has a specific learning disability as evidenced by response to intervention data confirming the following:

1. Performance discrepancy. The student's academic performance is significantly discrepant for the chronological age or grade level in which the student is enrolled, based on multiple sources of data when compared to multiple groups, which include the peer subgroup, classroom, school, district, and state level comparison groups; and

2. Rate of progress. When provided with well-delivered scientific, appropriate research-based general education instruction and interventions of reasonable intensity and duration with evidence of implementation fidelity, the student's rate of progress is insufficient or requires sustained and substantial effort to close the achievement gap with typical peers or academic expectations for the chronological age or grade level in which the student is currently enrolled; and

3. Educational need. The student continues to need interventions that significantly differ in intensity and duration from what can be provided solely through general education resources to make or maintain sufficient progress.

(e) The determination of the group concerning the effects on the student's achievement level of a visual, hearing, motor, intellectual, or emotional/behavioral disability; cultural factors; environmental or economic factors; an irregular pattern of attendance or high mobility rate; classroom behavior; or limited English proficiency; and

(f) Documentation based on data derived from a process that assesses the student's response to well-delivered scientific, research-based instruction and interventions including:

1. Documentation of the specific instructional interventions used, the support provided to the individual(s) implementing interventions, adherence to the critical elements of the intervention design and delivery methods, the duration and frequency of intervention implementation (e.g. number of weeks, minutes per week, sessions per week), and the student-centered data collected; and

2. Documentation that the student's parent(s) or guardian(s) were notified about the state's policies regarding the amount and nature of student performance data that would be collected and the general education services that would be provided; interventions for increasing the student's rate of progress; and the parental or guardian right to request an evaluation.

(g) The signature of each group member certifying that the documentation of determination of eligibility reflects the member's conclusion. If it does not reflect the member's conclusion, the group member must submit a separate statement presenting the member's conclusions.

(6) Implementation.

(a) The district's Policies and Procedures for the Provision of Specially Designed Instruction and Related Services for Exceptional Students, as required by Rule 6A-6.03411, F.A.C., must identify the applicable process criteria described in subparagraphs (4)(a)2.a. and (4)(a)2.b. of this rule on a school-by-school basis.

(b) Effective July 1, 2010, the process criterion specified in sub-subparagraph (4)(a)2.a. becomes the required process ~~sole criterion~~ and sub-subparagraph (4)(a)2.b. becomes obsolete.

(c) For schools using eligibility process criteria described in sub-subparagraph (4)(a)2.b. until July 1, 2010, a description of the pattern of strengths and weaknesses that is determined by the group to be relevant to the identification of a specific learning disability must be documented in the written summary required by subsection (5) of this rule.

Specific Authority ~~1001.02(1), (2)(n), 1000.01,~~ 1001.42(4)(l), 1003.01(3)(a), (b), 1003.57 FS. Law Implemented 1001.02(2)(n), 1003.01(3)(a), (b), 1001.42(4)(l), 1003.57, 1011.62(1)(c) FS. History--New 7-1-77, Amended 7-2-79, 7-14-82, Formerly 6A-6.3018, Amended 1-11-94, _____.

DEPARTMENT OF REVENUE

Corporate, Estate and Intangible Tax

RULE NO.: 12C-3.010
 RULE TITLE: Final Certificate and Nontaxable Certificate Mailing Procedure
 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. 34, No. 51, December 19, 2008 issue of the Florida Administrative Weekly.

In response to written comments received from the Joint Administrative Procedures Committee, dated January 14, 2009, changes have been made to the first three paragraphs on Page 4 of Form DR-308 (Request for Certificate for Waiver and Release of Florida Tax Lien) as follows:

Under Florida law, the personal representative is liable for tax due from the estate to the state of Florida. ~~The personal representative who signs this application personally guarantees the payment of any estate tax due on the estate identified in this request.~~

If tax is due on this estate, the personal representative must pay send deposit in the amount of ~~full tentative tax due or secure the payment of the tax due~~ along with the completed DR-308. The personal representative is ~~also~~ liable for any tax due not paid prior to the transfer or distribution, or additional tax that may be determined to be due after this request is approved.

The personal representative agrees to furnish the Florida Department of Revenue with a copy of the federal estate tax return [Form 706, *United States Estate (and Generation-Skipping Transfer) Tax Return*]. ~~The Department may also require the personal representative to furnish copies of all documents issued by the Internal Revenue Service, as well as any other states or territories of the United States, that relate to this estate.~~

DEPARTMENT OF TRANSPORTATION

RULE NO.: 14-98.005
 RULE TITLE: Application and Award 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. 34, No. 51, December 19, 2008 issue of the Florida Administrative Weekly.

SUMMARY OF CHANGE:

In response to the Joint Administrative Procedures Committee Review, the Department is removing the reference to Form 500-065-18 Concept Paper Evaluation Form in paragraph 14-98.005(7)(a) because that form was considered an internal Department evaluation not required to be incorporated by reference in the rule.

Paragraph 14-98.005(7)(a) is revised to read as follows:

“(a) the concept paper evaluation,”

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 BUSINESS AND PROFESSIONAL REGULATION

Division of Alcoholic Beverages and Tobacco

RULE NO.: 61A-5.747
 RULE TITLE: Preliminary Application for a New Quota Alcoholic Beverage License

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. 33, No. 46, November 16, 2007 issue of the Florida Administrative Weekly.

(1) DBPR form ABT-6033, QUOTA LICENSE DRAWING ENTRY FORM, incorporated herein by reference and effective 09/2008, must be used by an entrant to gain entry into a quota license drawing. This form is available on the division’s Internet website, from any division office, by e-mail or phone request to the department, or by writing to: Division of Alcoholic Beverages and Tobacco, Department of Business and Professional Regulation, 1940 North Monroe Street, Tallahassee, Florida 32399.

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

Board of Professional Engineers

RULE NO.: 61G15-32.008
 RULE TITLE: Design of Fire Alarms, Signaling Systems and Control System

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. 34, No. 11, March 14, 2008 issue of the Florida Administrative Weekly.

These changes were made to address concerns expressed by the Joint Administrative Procedure Committee. The changes were approved by the Board at its December 3, 2008 meeting. After the changes are made, the rules will read as follows:

1. When changed, subsection 61G15-32.008(4)(b) shall read as follows:

(b) Locate initiation and notification devices and connections to related systems on the floor plans and sections when needed for clarity. Related systems include elevator controls smoke control systems, dampers, and doors.

2. When changed, subsection 61G15-32.008(4)(m) shall read as follows:

(m) The system design must indicate if the system is to provide a general evacuation signal or a zoned evacuation for all high-rise buildings or multi-tenanted properties as defined in the Florida Building Code.

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 HEALTH

Dental Laboratories

RULE NO.: 64B27-1.003
 RULE TITLE: Continuing Education Requirements

NOTICE OF WITHDRAWAL

Notice is hereby given that the above rule, as noticed in Vol. 34, No. 47, November 21, 2008 issue of the Florida Administrative Weekly has been withdrawn.

THE PERSON TO BE CONTACTED REGARDING THE RULE IS: Donna Erlich, Assistant General Counsel, 4052 Bald Cypress Way, Bin A-02, Tallahassee, Florida 32399-1703

DEPARTMENT OF HEALTH

Division of Environmental Health

RULE NOS.: 64E-11.002, 64E-11.013
 RULE TITLES: Definitions, Certificates and Fees

NOTICE OF CORRECTION

Notice is hereby given that the following correction has been made to the proposed rule in Vol. 34, No. 46, November 14, 2008 issue of the Florida Administrative Weekly.

The correction is made in response to a comment received from the Joint Administrative Procedures Committee.

In that notice, it was incorrectly stated that a Notice of Proposed Rule Development was published on March 11, 2008. The correct date is April 11, 2008.

DEPARTMENT OF HEALTH

Division of Environmental Health

RULE NOS.:	RULE TITLES:
64E-11.002	Definitions
64E-11.013	Certificates and Fees

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. 34, No. 46, November 14, 2008 issue of the Florida Administrative Weekly.

The changes are made in response to comments received from the Joint Administrative Procedures Committee and comments received during the time period allowed for submission of materials.

Subsection 64E-11.002(6) has been changed so that when adopted it will read:

(6) "Civic" – Any organization, excluding Division of Blind Services, offering food service to the public; and

(a) Possesses tax exempt status under 26 U.S.C. section 501(c)(4); or

(b) Which has a chartered body of citizens, recognized by a municipality, whether for profit or not, that operates primarily to further the common good and general welfare of the people of the community.

Subsection 64E-11.002(27) has been changed so that when adopted it will read:

(27)"Institution" – A place that provides food service as that term is defined in Section 381.0072, F.S., established and operated to provide: care for persons who are destitute, disabled, mentally ill, or incarceration of prisoners and inmates; medical care or treatment; or education. Examples of such places include state mental health facilities, substance abuse treatment facilities, jails or prisons, hospitals, schools, colleges and universities.

Subsection 64E-11.002(33) has been changed so that when adopted it will read:

(33) "Other food service" – Any food service establishment located at or operated by a church, synagogue, or other not for profit religious organization that advertises food or drink for public consumption, an adult day care center, or a prescribed pediatric extended care center. The term also includes any other food service operation that has not been defined elsewhere in this chapter, but is located on the premises of an establishment regulated by the department under Section 381.0072, F.S. Examples include restaurants, delicatessens, establishments that primarily prepare and serve non alcoholic beverages such as coffee and smoothies, and retail food stores that provide food service, but which are not licensed under Chapter 509, F.S., or Chapter 500, F.S.

Paragraph 64E-11.013(3)(a) has been changed so that when adopted it will read:

(3)(a) "Fees shall be submitted to the department for certificates, as well as the provision of other required public health services at food service establishments. A food service establishment which applies for an annual certificate shall pay the full fee. Fees for all other certificates, such as change of ownership, reinstatement after revocation of certificate or new establishments after the first quarter shall be prorated on a quarterly basis. Proration shall be based on the quarter the department receives an application for a Sanitation Certificate to operate a food service establishment. Proration shall not apply to annual renewals of Sanitation Certificates.

Paragraph 64E-11.013(3)(b) has been changed so that when adopted it will read:

Annual Sanitation Certificate Fee per Food Service Establishment;	Total
1. Hospital	250.00
2. Nursing Home	250.00
3. Detention Facility	250.00
4. Bar/Lounge	190.00
5. Fraternal / Civic Organization	190.00
6. Movie Theater	190.00
7. School Cafeteria	
a. Operating for 9 months out of a year	170.00
b. Operating for more than 9 months	200.00
8. Residential Facility	135.00
9. Other Food Service	190.00
10. Child Care Center	110.00
11. Limited Food Service	110.00
12. Caterer	180.00
13. Mobile Food Unit	180.00
14. Vending Machine Dispensing Potentially Hazardous Food	85.00

Sub-subparagraph 64E-11.013(3)(c)1.a. has been changed so that when adopted it will read:

(3)(c)1.a. "Food service establishments with multiple food operations housed in the same building, at the same location, under the same ownership and operation, which operate under the umbrella of the sanitation certificate of the main food service establishment (as addressed in subparagraph (1)(b)1., of this rule), shall be assessed a single annual fee. That fee shall be assessed on the main food service establishment, it shall be the maximum allowed in s. 381.0072, which is \$300, and it shall cover the other food service facilities operating in that same building under the umbrella of the main food service establishment.

Sub-subparagraph 64E-11.013(3)(c)1.b. has been changed so that when adopted it will read:

(3)(c)1.b. “Food service establishments with multiple food operations housed in the same building, at the same location, under the same ownership and operation choosing not to operate under the umbrella of the sanitation certificate of the main food establishment (as addressed in subparagraph (1)(b)2., of this rule) shall be assessed separate annual fees for each food operation based on the category of establishments listed in paragraph (3)(b) above.”

Sub-subparagraph 64E-11.013(3)(c)1.c. has been changed so that when adopted it will read:

(3)(c)1.c. “Food service establishments with multiple food operations located in different buildings at the same location, regardless of ownership, shall be assessed separate annual fees for each food operation based on the category of establishments listed in paragraph (3)(b) above.”

Subparagraph 64E-11.013(3)(c)2. has been changed so that when adopted it will read:

(3)(c)2. “Vending machines dispensing potentially hazardous food, caterers and mobile food units that are located at or operated from an establishment listed in Section 381.0072, F.S., shall be charged the fees listed in paragraph (3)(b) above when they are not operating under an existing Sanitation Certificate that has already been issued for the main food service establishment where they are located.

Sub-subparagraph 64E-11.013(3)(d) has been changed so that when adopted it will read:

“1. Plan review per hour	\$40.00
Public schools, colleges, and vocational teaching facilities are exempt from this fee.	
2. Food establishment worker training course (per person)	\$10.00
3. Sanitation inspection	
a. No change.	
b. No change.	
4. Reinspection (for each reinspection after the first)	\$75
5. Late renewal of certificate	\$25.00
6. Temporary event food service establishment	
a. Sponsor without an existing sanitation certificate	\$100
b. Vendor or booth at an establishment or location without an existing sanitation certificate”	\$ 50

FINANCIAL SERVICES COMMISSION

OIR – Insurance Regulation

RULE NOS.:	RULE TITLES:
69O-186.003	Title Insurance Rates
69O-186.005	Premium Schedule Applicable to “Truth in Lending” and Other Endorsements

NOTICE OF WITHDRAWAL

Notice is hereby given that the above rule, as noticed in Vol. 33, No. 25, June 22, 2007 issue of the Florida Administrative Weekly has been withdrawn.

FINANCIAL SERVICES COMMISSION

OIR – Insurance Regulation

RULE NO.:	RULE TITLE:
69O-204.101	Disclosures to Viator of Disbursement

NOTICE OF WITHDRAWAL

Notice is hereby given that the above rule, as noticed in Vol. 33, No. 48, November 30, 2007 issue of the Florida Administrative Weekly has been withdrawn.

**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 THE LOTTERY

RULE NO.:	RULE TITLE:
53ER09-2	Instant Game Number 1016, AMAZING 8’s

SUMMARY: This emergency rule describes Instant Game Number 1016, “AMAZING 8’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: Faith L. Schneider, Legal Analyst, Department of the Lottery, 250 Marriott Drive, Tallahassee, Florida 32399-4011

THE FULL TEXT OF THE EMERGENCY RULE IS: