

the Agency or any of its employees acting within the scope of their employment. Such compromises and settlements shall be limited to cases where the total amount paid is less than \$100,000 and shall be reported to the Governor and Cabinet on at least a quarterly basis.

(7) To accept donations and gifts of property or grants of money on behalf of the Agency in compliance with the law, provided such gifts are unencumbered and have no impact on any other agency of the state. Any such donations shall be reported to the Governor and Cabinet on a quarterly basis.

(8) To act on behalf of the Agency in carrying out the provisions of Chapter 120, F.S., unless prohibited by law or by directives issued by the Governor and Cabinet acting as the head of the Agency. This delegation specifically includes, but is not limited to the following:

(a) To publish a notice of intended rulemaking, after approval of such proposed notice by the Governor and Cabinet pursuant to Section 120.54(1)(k), F.S.

(b) To certify that a proposed rule has been approved by the Governor and Cabinet pursuant to Section 120.54(3)(e)1., F.S.

(c) To file with the Department of State the approved rule pursuant to Section 120.54 (3)(e)1., F.S.

(d) To explain in writing when appropriate why a rule development workshop is unnecessary.

(e) To issue declaratory statements pursuant to Section 120.565, F.S.

(f) To provide methods for making available a description of the Agency's organization and general course of its operations, pursuant to Section 120.54(5)(b)7., F.S.

(g) To issue a written statement pursuant to Section 120.57(3)(c), F.S., explaining why a bid solicitation process or contract award process must be continued without delay due to an immediate and serious danger to the public health, safety or welfare.

(9) To perform all administrative activities required to supervise, direct, conduct, and administer the duties relating to enterprise information technology services set forth in Section 14.204(4), F.S., or in rules adopted thereunder relating to enterprise information technology issues.

(10) To perform all administrative activities required to supervise, direct, conduct and administer the duties set forth in Section 282.318, F.S., or in rules adopted thereunder relating to information security issues.

(11) To perform all administrative activities required to supervise, direct, conduct and administer the duties set forth in Section 282.201, F.S., or in rules adopted thereunder relating to the State Data System.

Rulemaking Authority 14.204(6) FS. Law Implemented 14.204, 282.201, 282.318 FS. History—New _____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
David W. Taylor, Executive Director, Agency for Enterprise Information Technology, 4030 Esplanade Way, Suite 135, Tallahassee, Florida, 32399-0950; telephone (850)922-7502

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Governor and Cabinet, The Capitol, Tallahassee, Florida 32399-0001

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: January 27, 2009

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: February 20, 2009. The notice of rule development for this rule stated that a workshop would not be held unless one was requested in writing. The Agency did not receive a written request to hold a workshop. Throughout this rulemaking process, copies have been made available upon request.

Section III Notices of Changes, Corrections and Withdrawals

DEPARTMENT OF EDUCATION

State Board of Education

RULE NO.:	RULE TITLE:
6A-1.039	Supplemental Educational Services in Title I Schools

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. 35, No. 6, February 13, 2009 issue of the Florida Administrative Weekly.

Form SES 100 as incorporated by reference was amended as shown below:

I. APPLICATION INSTRUCTIONS AND REQUIREMENTS

A. Submission Deadline Requirements

The submission deadline for the 2009-2010 academic school year is 11:59 p.m. Eastern Standard Time (EST) on May 25, 2009. For subsequent academic school years, the submission deadline is 11:59 p.m. EST on the first Friday in March. Applications submitted by means other than those set forth in the Request for Applications (RFA), and applications received after the deadline for submission, regardless of the cause or nature of the delay, will not be accepted or considered for approval by the Department.

Submission Deadline Requirements

~~This application process is for Supplemental Educational Services providers to become approved for the 2008-2009 academic school year and is for services provided to students by October 15, 2008. By March 3, 2008, each applicant must:~~

- ~~• Submit the on-line application~~

• Mail or hand deliver hard-copy documentation of the following:

- Cover Page
- Checklist of Hard-Copy Documentation Requirements
- Financial Soundness Documentation
- Original signed and properly executed assurances on Attachment A: General Assurances and Attachment B: Internet Statement of Assurances

The Florida Department of Education must receive all parts of the application by the stated deadline in order to be considered for review and approval. Failure to submit all parts by the deadline will result in the denial of approval of the application. No additional material beyond that which is requested will be considered.

1. On-line Application Requirements

This application must be SUBMITTED on-line at <http://www.fldoe.org/flbpso> no later than 11:59 p.m. EST on May 25, 2009. For subsequent academic school years, the submission deadline is 11:59 p.m. EST on the first Friday in March. It is the responsibility of the applicant to ensure that the on-line application is submitted by the stated deadline.

On-line Application Requirements

This application process is for the 2008-2009 academic school year and is for services provided to students by October 15, 2008. This application must be submitted on-line at <http://www.fldoe.org/flbpso> no later than 5:00 p.m. Eastern Standard Time on March 3, 2008. Applications received after this deadline will not be accepted.

2. Hard-Copy Documentation Requirements ~~Hard-copy Documentation Requirements~~

The financial soundness documentation and assurances must be RECEIVED by the Florida Department of Education (FLDOE) no later than 5:00 p.m. Eastern Standard Time on May 25, 2009. For subsequent academic school years, the submission deadline is 5:00 p.m. EST on the last Friday in March. Hard-copy documentation must be mailed or hand-delivered to the address listed below no later than 5:00 p.m. Eastern Standard Time on March 3, 2008. It is the responsibility of the sender to ensure that all hard-copy documentation is received by the stated deadline.

Hard-copy documentation should be MAILED or HAND-DELIVERED to:

Florida Department of Education
Bureau of Student Assistance Public School Options
325 West Gaines Street, Suite 348 346
Tallahassee, FL 32399-0400

B. Technical Assistance ~~Technical Assistance~~

Technical assistance regarding this RFA, review rubric, and the procedures for submitting a complete application will be posted on the FDOE website for SES at <http://www.fldoe.org/flbpso>.

C. Method of Review and Scoring Requirements ~~Method of Review and Scoring Requirements~~

Each application is reviewed to ensure accurate completion of requested information and data, compliance with all provider eligibility requirements, and agreement with assurances set forth in the document. A minimum of three ~~five~~ reviewers will review the scored portion of the application narrative as follows: the highest and lowest scores will be dropped and the remaining three scores will be averaged. After averaging the remaining three scores, Successful applications require the following:

- 75% of the total possible points ~~A score of at least 70 points out of 100 points~~
- A score of at least two points for each question
- Submission of sufficient documentation of financial soundness
- Submission of all properly executed assurance pages

D. Method of Announcement ~~Method of Announcement~~

All applicants will be notified by mail whether the application is approved or denied ~~not approved~~. Additionally, the list of the state-approved SES providers for the 2008-2009 school year will be posted on the FLDOE Web site ~~website~~ for SES at <http://www.fldoe.org/flbpso>. Information regarding approval or non-approval will not be provided via email or telephone.

Eligible Service Providers

The following entities are eligible to apply to provide SES in Florida:

- Individuals
- For-profit companies
- Non-profit organizations
- Community based/faith-based organizations
- Institutions of higher education
- Local educational agency such as a Florida public school district, a university laboratory school, and Florida Virtual School, that is not identified as in need of improvement, corrective action, or restructuring
- Public schools not identified as in need of improvement, corrective action, or restructuring
- Charter schools that are not identified as in need of improvement, corrective action, or restructuring
- Private schools
- 21st Century Community Learning Centers that are not affiliated with school districts identified as in need of improvement, corrective action, or restructuring
- Public libraries
- Distance learning services including computer-based instruction
- In-home tutoring services
- Family literacy programs
- Child care centers serving school-age students
- Regional educational consortia

• ~~School districts that are in need of improvement and have obtained a United States Department of Education (USDE) waiver to be providers of SES.~~

II. APPLICATION PROPOSAL

Please consider each of the responses carefully as these responses will become part of the terms of the contract signed with the school district. In addition, FLDOE will monitor each provider to ensure that the implementation of the program is consistent with the approved application.

A. Contact Information (* means fields required)

*Name of Agency Head _____

*Federal Employer Identification Number (FEIN) or Federal Tax ID Number _____

*Name of Contact Person _____ *Title _____

*Mailing Address _____

*City _____ *State _____ *Zip Code _____ *Telephone Number _____ Fax Number _____

*E-mail Address _____ Organization Web site _____

*Contact Person for SES _____ *Title _____

This person will be listed on the SES Approved Provider Directory

*Mailing Address _____

*City _____ *State _____ *Zip Code _____ *Telephone Number _____ Fax Number _____

*E-mail Address _____ Organization Web site _____

Contact Information (All fields required) _____

Name of Company or Agency: _____

Federal Employer Identification Number (FEIN) or Federal Tax Identification Number: _____

Name of Contact Person: _____

Title: _____

Mailing Address: _____

City/State/Zip Code: _____

Telephone Number: _____

Fax Number: _____

E-mail Address: _____

Organization Website: _____

B. Applicant Status

Please complete the following information.

☐ Applying as a NEW provider ☐ Applying as a RENEWING provider

~~Applicants Submitting as Renewing Providers:~~

(1) ~~For which year(s) H~~has the applicant been approved to ~~for providing~~ SES in Florida? ☐ Yes ☐ No

School year(s) _____

Under what business name(s) _____

Serving which school district(s) _____

If approved in Florida, identify the Florida SES Provider ID Number(s) _____

(2) Is the applicant an approved provider for SES in any

other state? ☐ Yes ☐ No

If yes, identify the state(s) _____

Under what business name(s) _____

(3) Has the applicant been removed as an approved provider in any state or district within a state, including Florida? ☐ Yes ☐ No

If yes, company Name(s) Used: _____

If yes, identify the state(s) _____

If yes, provide the school year(s) date(s), district(s), and the reason(s) for removal _____

(4) Has the applicant ever served as a provider in Florida under any business name and had a contract with a district terminated? ☐ Yes ☐ No

Identify the district(s) _____

If so, provide the school year and the reason(s) for termination _____

~~For which year(s) has the applicant been approved for providing SES in Florida?~~

Under what business name(s): _____

Serving which school district(s): _____

If approved in Florida, identify the Florida SES Provider ID: _____

Is the applicant an approved provider for SES in any other state? _____

☐ Yes ☐ No

Identify the state(s): _____

Has the applicant been removed as an approved provider in any state or district within a state, including Florida?

☐ Yes ☐ No

Identify the state(s): _____

If yes, provide the state(s), school year(s) date(s), district(s), and the reason(s) for removal: _____

Has the applicant ever served as a provider in Florida and had a contract with a district terminated? _____

☐ Yes ☐ No

Identify the district(s): _____

If so, provide the school year and the reason(s) for termination: _____

Service History

Has the applicant conducted surveys of parents whose children received SES tutoring in the prior school year?

☐ Yes ☐ No

If yes, do these results show that at least 50% of parents of participating students are satisfied with the services?

☐ Yes ☐ No

Has the applicant's instructional program been subject to a state or self-administered evaluation?

☐ Yes ☐ No

If yes, do these results demonstrate that the provider's instructional program has improved student achievement?

☐ Yes ☐ No

C. School District(s) to be Served: Select all school districts in which the applicant requests approval and agrees to provide SES. School District(s) to be Served (select all school districts in which the applicant requests approval and agrees to provide SES):

Indicate the school district(s) for which the applicant will provide services. A list of Title I schools, by district, with the identified School In Need of Improvement (SINI) status may be accessed at <http://www.fldoe.org/bsa/title1/pdf/2007sinilist.pdf>.

*Applicants that select to serve students at Florida School for Deaf and Blind must be able to provide transcription of materials into large print and Braille. In addition, tutors serving deaf students must be fluent in American Sign Language.

(List of Districts – no change)

D. Applicant Classification of Eligible SES Providers: Check the category that best describes the applicant's organization. Applicant Classification of Eligible SES Providers (check the category that best describes the applicant's organization)

- ☐ Individual
- ☐ For-profit company
- ☐ Non-profit organization
- ☐ Community based/faith-based organization
- ☐ Institution of higher education
- ☐ Local educational agency such as a Florida public school district, a university laboratory school, and Florida Virtual School, that is not identified as in need of improvement, corrective action, or restructuring
- ☐ Public schools not identified as in need of improvement, corrective action, or restructuring
- ☐ Charter school not identified as in need of improvement, corrective action, or restructuring
- ☐ Private school
- ☐ 21st Century Community Learning Center that is not affiliated with a school district that is identified as in need of improvement, corrective action, or restructuring
- ☐ Public library
- ☐ Distance learning service including computer based instruction
- ☐ In home tutoring service
- ☐ Family literacy program
- ☐ Child care center serving school-age students
- ☐ Regional educational consortium
- ☐ School districts that are in need of improvement and have obtained a United States Department of Education (US ED) waiver to be providers of SES.
- ☐ Other _____ ☐ Other (Describe): _____

E. Academic and Instructional Information **ACADEMIC AND INSTRUCTIONAL INFORMATION**

1. Subject Area(s): Check all that apply. Subject Area(s) (check all that apply):

- ☐ Reading/Language Arts
- ☐ Mathematics
- ☐ Science

2. Additional Staff Qualifications: Check all that apply. Additional Staff Qualifications (check all that apply):

~~***NOTE***: All tutorial staff must meet the minimum standards for Title I paraprofessionals, as follows:~~

- ~~• Title I paraprofessionals must have a secondary school diploma or its recognized equivalent; and~~
- ~~• Title I paraprofessionals must have at least one of the following:~~

- ~~➤ Completed two years of study at an institution of higher education (equivalent to 60 semester hours)~~
- ~~➤ Obtained an associate's (or higher) degree~~
- ~~➤ Met a rigorous standard of quality and be able to demonstrate, through a formal local academic assessment, knowledge of and the ability to assist in instructing, reading, writing, and mathematics (or, as appropriate, reading readiness, writing readiness, and mathematics readiness).~~

Indicate tutorial staff qualifications below:

- ☐ ~~Meet the minimum standards as Title I paraprofessionals~~
- ☐ ~~Are qualified with a reading certification or endorsement~~
- ☐ Current State of Florida certified teachers ~~Are qualified as state certified or licensed teachers~~
- ☐ Ability to communicate languages other than English
- ☐ Spanish
- ☐ Haitian Creole
- ☐ Other (Identify) _____

☐ ~~Have experience in teaching students with specified disabilities~~

~~Please specify disabilities:~~

☐ ~~Have experience in teaching students who are English Language Learners (ELL)~~

☐ ~~Have the ability to speak languages other than English~~

- ☐ Spanish
- ☐ Haitian Creole
- ☐ Other (Identify): _____

☐ ~~Have experience in teaching students with visual impairments~~

☐ ~~Have experience in teaching students with hearing impairments~~

3. Type of Instruction: Check all that apply. Type of Instruction (check all that apply):

- ☐ Individual tutoring
- ☐ In-home tutoring. A parent or guardian must be present during and throughout all tutoring sessions.

- ☐ Distance learning instruction (on-line, internet-based, or computer-based instruction)
- ☐ Small group instruction (not to exceed a group size of five students per tutor)
- ☐ Large group instruction (not to exceed a group size of eight students per tutor)

4. Grade Levels to be Served: Check all grades level you will serve for each subject area (Note: The curriculum described in the application must be appropriate for the grade levels indicated):

Grade Levels to be Served (check all that apply):

Reading/Language Arts

K	1	2	3	4	5	6	7	8	9	10	11	12

Mathematics:

K	1	2	3	4	5	6	7	8	9	10	11	12

Science

K	1	2	3	4	5	6	7	8	9	10	11	12

F. SES Provisions

1. Student Capacity ~~Student Capacity~~

___ Indicate the minimum number of students that the applicant would serve at each site

___ ~~Indicate the maximum number of students that the applicant would serve in each school district~~

☐ Yes ☐ No Capacity to serve students with disabilities or plans developed under section 504 of the Rehabilitation Act

☐ Yes ☐ No Capacity to serve students who are English language learners (ELL)

☐ Capacity to serve students with visual impairments

☐ Capacity to serve students with hearing impairments

2. Location of Services: Check all that apply. Location of Services (check all that apply)

- ☐ School campus
- ☐ Provider facility
- ☐ Faith-based center (for example, church, temple, or mosque.)
- ☐ Community-based center
- ☐ Student's home (on-line or computer-based)
- ☐ Student's home with tutor present
- ☐ ~~Child Care Center~~
- ☐ Public site such as public library (describe): _____

☐ Other (describe): _____

Transportation

~~Will the applicant provide transportation if services are provided at a site other than the student's school?~~

~~☐ Yes, transportation will be provided for each student enrolled from the school to the SES site and back to the school or home. Describe transportation service to be provided:~~

~~☐ No, transportation will not be provided to students.~~

G. Operations: Check all that apply. Operations (check all that apply)

1. Day(s) Services will be Provided:

☐ Weekday (Monday – Friday)

☐ Weekend (Saturday – Sunday)

Day(s) Services will be Provided:

☐ Monday ☐ Tuesday ☐ Wednesday ☐ Thursday ☐ Friday

☐ Saturday ☐ Sunday

Frequency of SES sessions for each student:

☐ Every Day ☐ Once a Week ☐ Twice a Week ☐ Three Times a Week

☐ Other (Describe): _____

2. Length of each service session: Cumulative sessions may not exceed two hours per day or six hours per week. Length of each service session (Cumulative sessions may not exceed two hours per day or six hours per week.):

☐ 2 Hours

☐ 1 Hour

☐ 30 Minutes

☐ Other (describe) _____

Can the applicant provide a minimum of 20 hours of tutoring per student?

☐ Yes, the applicant can provide a minimum of 20 hours per student.

☐ No, the applicant cannot provide a minimum of 20 hours per student.

3. Times of Service ~~Times of Service:~~

☐ Before school

☐ After school

☐ Weekends

☐ Summer (Identify dates, such as June 1 – August 4, 2009):

☐ Other (Describe): _____

H. Cost of Service ~~COST OF SERVICE~~

1. Rate for Provision of SES: Per Student, Per Hour, Per Type of Instruction ~~Rate for Provision of SES: Per Student, Per Hour, Per Type of Instruction~~

Indicate the rate to serve SES for each student per hour and for each type of instruction offered and indicated in this application under Type of Instruction. For the 2007-2008 school year, the statewide average cost per pupil for SES is \$1,120. More detailed information on the cost per pupil allocation for supplemental educational services may be found at <http://www.fldoe.org/filbpo/xls/perpupil-allocation0708.xls>.

****Note**** The allowable range is between \$5 and up to \$70.80 per hour for each student, per hour, and per type of instruction.

RATE PER STUDENT PER HOUR:

\$_____ Small group instruction (group size two to five students per tutor ~~not to exceed five students with one tutor~~)

- \$ _____ Large group instruction (group size six to eight students per tutor ~~not to exceed ten students with one tutor~~)
- \$ _____ Distance learning including computer-based instruction
- \$ _____ Individual tutoring
- \$ _____ In-home tutoring

III. APPLICATION NARRATIVE: To ensure an anonymous review of the application, the company name should not be included in this section.

~~THE FOLLOWING ITEM WILL NOT BE SCORED (0 points):~~

~~Summarize the overall proposed program in a narrative including services provided, diagnostic/prescription process, curriculum, type of instruction, mode of instruction, and major elements of the program.~~

THE FOLLOWING ITEMS WILL BE SCORED (0-5 points per question):

A. The provider must have a demonstrated record of effectiveness in increasing the student academic achievement toward meeting the state achievement standards [NCLB, 20 U.S.C. Section 6316(e)(12)(B)(i)].

1. ~~Provide the~~ Describe specific student achievement data that ~~document evidence~~ that the applicant's company or organization had a positive impact on increasing student achievement toward meeting state achievement standards. Include quantitative data that documents student learning gains.

2. ~~Provide results of state evaluations and parent satisfaction surveys that attest to the program's effectiveness in raising student achievement, if any exist.~~

B. The provider must document that the instruction provided is high quality, based upon research, and designed to increase student academic achievement of eligible students and attain proficiency in meeting the state's academic achievement standards [NCLB, 20 U.S.C. Section 6316(e)(12)(C)(ii)].

~~2.3.~~ Identify the curriculum and key instructional strategies of the proposed program and quantitative research that documents its effectiveness in increasing student achievement.

3. ~~Identify the key instructional strategies of the proposed program and the quantitative research that documents the effectiveness of the instructional strategies in increasing student achievement. Examples of instructional strategies may include scaffolding, graphic organizers, use of manipulative resources, effective question and answer techniques, use of prior knowledge, direct instruction, directed practice, and mastery learning. For more information on effective instructional strategies, see <http://www.ept.fsu.edu/ESE/in/strmain.html>.~~

4. Identify the major design elements of the proposed program and quantitative research that documents the effectiveness of the elements in increasing student achievement. Examples of major elements may include mode of instruction, time on task, or resource materials.

5. Identify the delivery model of the proposed program and the quantitative research that documents the effectiveness in increasing student achievement. Include academic research with specific evidence the delivery model has positive impact on increasing student achievement. Examples of delivery models include group size for instruction, direct instruction, distance learning, computer based, individual tutoring, in home tutoring. (NOTE: Homework assistance is not a form of SES.)

~~3.6.~~ Describe how instruction will be focused, intensive, and tailored to meet the needs of individual students, including students with disabilities, students with 504 plans, and English language learners.

C. The provider must ensure that supplemental educational services are consistent with the instructional program of the local educational agency and the academic standards set forth by the state (Sunshine State Standards) [NCLB, 20 U.S.C. Sections 6316(e)(5)(B) and 6316(e)(12)(B)(ii)].

~~4.7.~~ Describe the alignment of the process the applicant will use to ensure that the proposed curriculum with is correlated to the Sunshine State Standards for each grade level and content area you plan to serve. For information on Florida's Sunshine State Standards, see <http://www.fl DOE.org/bii/curriculum/sss/>.

~~5.8.~~ Describe the process the applicant will use to ensure the proposed program aligns with the instructional program of the school district(s) in which the applicant intends to serve students. Cite at least one example of the correlation of the proposed program ~~and describe its integration~~ with at least one district that the applicant intends to serve.

~~6.9.~~ Describe how the process to ensure that the applicant will coordinate supplemental educational services with the classroom instructional program of the students receiving the services. Describe the specific methods, tools, and processes that will be used to execute this coordination.

D. The provider must set measurable achievement goals for each student in consultation with each student's parents and the school district and adhere to the timetable for improving the student's achievement in the student learning plan. The provider must measure the student's progress, and regularly inform the student's parents and teachers regarding the progress of the student in improving academic achievement as outlined in the student learning plan [NCLB, 20 U.S.C. Sections 6316(e)(3)(A) and (B)].

~~7.10.~~ Describe how diagnostic assessment data will be used to identify the student's knowledge and skills gaps and set measurable goals for the student learning plan.

~~8.11.~~ Identify the specific assessment to be administered if district student data are not available for developing the student learning plan. Describe the specific pre- and post-assessments that will be used and the alignment to the Sunshine State Standards.

~~11. Describe the process and timelines for the development of the student learning plan.~~

~~9.12.~~ Describe the procedures and timelines to be used to evaluate, monitor, and report, at a minimum monthly, each student's progress toward meeting the goals as stated on the student learning plan. Address how applicant ensures that the progress reports are understandable to parents and in parents' native language, if feasible. Include frequency of progress reports to student's parents, teachers, and appropriate school district staff.

~~13. Describe how student attendance and participation data will be collected, verified, and reported to the school district. Include strategies for improving attendance of students who are habitually absent.~~

~~14. Describe the process and timelines the applicant will use to ensure that services begin no later than October 15th of each school year. Include steps and timelines the applicant will implement from approval of the application to the provision of services to students.~~

E. The provider must have the capacity and resources, including financial soundness and compliance with applicable federal, state, and local health, safety, and civil rights laws and regulations, to provide supplemental services to students [NCLB, 20 U.S.C. Sections 6316(e)(12)(B)(iii) and (e)(5)(C)].

~~10.15.~~ Describe the applicant's infrastructure, including resources such as personnel, buildings, or equipment, and capacity to ensure services begin no later than October 15th of each school year. Include roles and responsibilities of staff within the organization.

~~16. Describe the process for recruiting, hiring, and initial training of staff.~~

~~11.17.~~ Describe the initial training, professional development, and ongoing support provided to tutors to ensure that the proposed program is implemented with fidelity.

~~12.18.~~ Describe procedures for supervising tutors to ensure the proposed program is implemented with fidelity and that all employees comply with ethical business practices pursuant to assurances found in the Request for Application, such as behavior at provider fairs, quality of tutoring services, and effectiveness of instruction.

~~13.19.~~ Describe the process and procedures for monitoring the program to ensure the proposed program is implemented with fidelity, such as tutor/student ratio, supervision of students, approved instructional materials, students on task, or beginning services on time.

~~20. Describe procedures to be used to ensure that all staff providing direct services to students or having access to school grounds comply with fingerprint-based background screening~~

~~pursuant to Section 1012.465, Florida Statutes (Background screening requirements for certain noninstructional school district employees and contractors). For more information, see the related Technical Assistance Paper at http://www.fldoe.org/flbppo/pdf/tap_fingerprint.pdf.~~

IV. FINANCIAL SOUNDNESS – No change.

A. through F. No change.

G. Evidence of financial soundness:

If an applicant has been in business for two or more consecutive years submit:

Financial statements in the form of an income statement for the past two years

or

Financial audits signed by a certified public accountant for the past two years

If the applicant has been in business for less than two consecutive years submit:

Federal income tax returns of a member of the board of directors, a managing member, or chief officer for the past two years

AND

Documentation from a financial institution showing three months of operating expenses in the form of a line of credit, loan, or a pre-approved loan on behalf of the company

AND

List and submit on attached *Three Months Projected Expense Report* projected expenses to operate SES in Florida for three months. Expenses should include, but not be limited to, information on the resources to cover the costs of salaries, fingerprinting/background screening, insurance policies, instructional materials, marketing, professional development, and facility rental fees. The total projected expenses on the report should match, at a minimum, the amount of the line of credit, loan, or pre-approved loan secured from a financial institution

☐ ~~Cover Page~~

☐ ~~Financial Soundness~~

☐ ~~Copy of general liability insurance with the Department of Education listed as the certificate holder~~
Copy of evidence of fiscal soundness:

☐ ~~Annual financial statements or fiscal audits~~

or

☐ ~~Federal income tax returns and financial letter of credit~~

☐ ~~Evidence of legal qualification to do business in Florida~~

☐ ~~Verification of business or non-profit status~~

~~Signed notarized statements on agency letterhead regarding the organization's (each required):~~

☐ ~~Suspension or disbarment from receiving federal funding~~

- ☐ Any lawsuits filed against organization
- ☐ Denial of approval or removed from approval status from another state
- ☐ Unresolved complaints with the Better Business Bureau
- ☐ List of the Board of Directors or chief officers of the organization, and their titles
- ☐ Assurances with original signature
 - ☐ Attachment A
 - ☐ Attachment B

FINANCIAL SOUNDNESS

To prove financial soundness, applicants must mail or hand deliver a copy of the following documents to the Bureau of Public School Options at FDOE:

Note: Public schools and school districts need only submit supporting documentation for 1, 5, and 6.

1. Evidence of applicant's current commercial general liability insurance in the form of a certificate of insurance with the Department of Education, Bureau of Public School Options listed as the certificate holder. The name of the applicant must match the name on the certificate.
2. Evidence of the applicant's fiscal soundness. Submit:
 - annual financial statements or fiscal audits signed by a certified public accountant for the past two years, or
 - federal income tax returns for the past two years along with a letter of credit from a financial institution.
3. A copy of the most recent registration with the Florida Department of State (www.sunbiz.org), showing evidence that the applicant is legally qualified to do business in Florida.
4. Verification of business status or non-profit status. For example, an Internal Revenue Service (IRS) letter with FEIN or certificate issued by government.
5. Signed notarized statements on applicant's letterhead by the individual authorized to act on behalf of the organization attesting to the following:
 - The organization has not been suspended or disbarred from receiving federal funding. If yes, explain the circumstances for suspension or disbarment.
 - The organization has had no lawsuits filed against them for educational or fiscal mismanagement, civil rights violations, criminal acts, or other reasons. If yes, provide information and the outcome for each instance.
 - The organization has not been denied approval nor has its approval status as an SES provider been revoked. If the organization has been denied approval or its approval status as an SES provider has been revoked, identify such state(s) or district(s) and the reason(s) for such denial or revocation.
 - The organization does not have any unresolved complaints with the Better Business Bureau or FDOE. If the organization does have any known unresolved complaints, provide an explanation of the complaint(s) and results.

6. A complete list of the board of directors and chief officers of the organization and their titles.

Three Months Projected Expense Report – No change.

V. ATTACHMENT A: GENERAL ASSURANCES

Execution Requirements

The assurance pages must contain no revisions, additions, or deletions, and must bear an original signature of the agency head in blue ink to distinguish it from a copy or facsimile. The printed name and original signature must match.

Assurances signed by officials other than the head of the providing agency must have a letter signed by the agency head, or documentation citing action of the governing body delegating authority to the person to sign on behalf of said official.

As the duly authorized representative of this applicant, I certify agreement and compliance with all of the following assurances and conditions: (No Change items 1-23)

I, THE UNDERSIGNED, CERTIFY that I am an individual authorized to act on behalf of the organization in submitting this application and assurances and that all of the information provided herein is true and accurate, to the best of my knowledge. I understand that, if any of the information contained herein has been misrepresented, that may constitute grounds for denying the applicant's request for approval to be placed on the list of approved supplemental educational services providers or for removal from that same list. I further certify that the organization will comply with all of the assurances set forth herein. Failure to comply with the assurances during the school year may result in removal from the state approved list and potential ineligibility to re-apply during the following two year period.

_____ Signature of Applicant	_____ Date signed
_____ Printed Name	_____ Name of Agency/ Company/Group

Title of Signing Agent

Note:

1. Printed name and original signature must match.
2. Use blue ink color for original signature.
3. "By", "for," or initials will not be accepted.
4. Rubber stamp signatures will not be accepted.

24. Applicant assures that it has not been removed and permanently barred from providing supplemental educational services in any state or district.

25. Applicants who selected to serve students at Florida School for Deaf and Blind and indicated a capacity to serve students with visual impairments assures that it will provide transcription of materials into large print and Braille.

26. Applicants who selected to serve students at Florida School for Deaf and Blind and indicated a capacity to serve students with hearing impairments assures that it will provide tutors fluent in American Sign Language.

27. Applicant assures that all tutorial staff meet the minimum standards for Title I paraprofessionals, as follows:

- Title I paraprofessionals must have a secondary school diploma or its recognized equivalent; and
- Title I paraprofessionals must have at least one of the following:
 - Completed two years of study at an institution of higher education (equivalent to 60 semester hours)
 - Obtained an associate's (or higher) degree
 - Met a rigorous standard of quality and be able to demonstrate, through a formal local academic assessment, knowledge of and the ability to assist in instructing, reading, writing, and mathematics (or, as appropriate, reading readiness, writing readiness, and mathematics readiness).

28. Applicant assures that cumulative sessions shall not exceed two hours per day or six hours per week.

29. Applicant understands that the allowable range is between \$5 and up to \$70 per hour for each student, and per type of instruction.

~~ATTACHMENT B: INTERNET STATEMENT OF ASSURANCES~~

~~Execution Requirements~~

~~The assurance pages must contain no revisions, additions, or deletions, and must bear an original signature of the agency head in blue ink to distinguish it from a copy or facsimile. The printed name and original signature must match.~~

~~Assurances signed by officials other than the head of the providing agency must have a letter signed by the agency head, or documentation citing action of the governing body delegating authority to the person to sign on behalf of said official.~~

The following guidelines define appropriate use of the Internet.

30. Applicant understands that t~~Transmit~~ting any material in violation of any U.S. or state regulation or school board policy is prohibited. This includes, but is not limited to, copyrighted material and threatening or obscene material.

31. Applicant understands that a~~All~~ content transmitted via e-mail or the Internet shall be secular, neutral, and non-ideological.

32. Applicants providing on-line instruction agree to ensure the safety of all students while accessing the internet. It is the responsibility of the applicant to block all unsafe web content.

33. Applicant understands that h~~H~~ate mail, harassment, discriminatory remarks, and other antisocial behaviors are unacceptable in Internet and other network communication.

34. Applicant understands that a~~All~~ information accessible via the Internet should be assumed to be private property and subject to copyright protection. Internet sources should be credited appropriately, as with the use of any copyrighted material.

35. Applicant has a responsibility to respect the privacy and property of students. Applicant should not intentionally seek information about, obtain copies of, or modify, files, data, or passwords of other users.

36. For the safety of students, applicant must not request or provide any personal information, such as addresses, phone numbers, or photographs.

37. Applicant should not expect that files are private. State and school district representatives, including school administrators, as well as parents, may review files and communications at any time to ensure that the network is being used responsibly. Applicant must gain written parental permission before communicating with students under the age of 13 via e-mail or the Internet.

38. Applicant has a responsibility to protect the student users from marketing and Spam.

39. Applicants shall ensure that the primary purpose of a computer in the SES program is instructional ~~all computer equipment provided to. When a computer provided by the applicant is used for instructional purposes, the student is allowed to keep the computer is returned to the applicant upon completion of SES.~~ If students will be using a school computer to access information from an applicant, the applicant must abide by all school and school district policies and procedures regarding computer/Internet use.

40. Applicant agrees to comply with all assurances set forth in this application.

I, THE UNDERSIGNED, CERTIFY that I am an individual authorized to act on behalf of the organization in submitting this application and assurances and that all of the information provided herein is true and accurate, to the best of my knowledge. All tutors/instructors employed by this organization will be notified of all guidelines regarding appropriate use of the Internet and that as a condition of employment with the provider, all employees who will provide SES shall agree to comply with the guidelines. I understand that, if any of the information contained herein has been misrepresented, that may constitute grounds for denying the applicant's request for approval to be placed on the list of approved supplemental educational services providers or for removal from that same list. I further certify that the organization will comply with all of the assurances set forth herein. Failure to comply with the assurances during the school year may result in removal from the state-approved list and potential ineligibility to re-apply during the following two-year period.

I, the undersigned, agree that all tutors/instructors employed by this organization will be notified of all guidelines regarding appropriate use of the Internet and that as a condition of employment with the provider, all employees who will provide SES shall agree to comply with the guidelines. Failure to comply with the assurances during the school year may result in removal from the state approved list and potential ineligibility to re-apply during the following two-year period.

Signature of Applicant

Date signed

Printed Name

Name of Agency/
Company/Group

Title of Signing Agent

Note:

1. Printed name and original signature must match.
2. Use blue ink for original signature.
3. "By", "for," or initials will not be accepted.
4. Rubber stamp signatures will not be accepted.

☐ Yes ☐ No

If yes, company Name(s) Used: _____

If yes, identify the state(s) _____

If yes, provide the school year(s) date(s), district(s), and the reason(s) for removal _____

(4) Has the applicant ever served as a provider in Florida under any business name and had a contract with a district terminated? ☐ Yes ☐ No

Identify the district(s) _____

If so, provide the school year and the reason(s) for termination _____

~~For which year(s) has the applicant been approved for providing SES in Florida? _____~~

~~Under what business name(s): _____~~

~~Serving which school district(s): _____~~

~~If approved in Florida, identify the Florida SES Provider ID:~~

~~Is the applicant an approved provider for SES in any other state?~~

~~☐ Yes ☐ No~~

~~Identify the state(s):~~

~~Has the applicant been removed as an approved provider in any state or district within a state, including Florida?~~

~~☐ Yes ☐ No~~

~~Identify the state(s):~~

~~If yes, provide the state(s), school year(s) date(s), district(s), and the reason(s) for removal:~~

~~Has the applicant ever served as a provider in Florida and had a contract with a district terminated?~~

~~☐ Yes ☐ No~~

~~Identify the district(s):~~

If so, provide the school year and the reason(s) for termination:

Service History

Has the applicant conducted surveys of parents whose children received SES tutoring in the prior school year?

☐ Yes ☐ No

If yes, do these results show that at least 50% of parents of participating students are satisfied with the services?

☐ Yes ☐ No

Has the applicant's instructional program been subject to a state or self-administered evaluation?

☐ Yes ☐ No

If yes, do these results demonstrate that the provider's instructional program has improved student achievement?

☐ Yes ☐ No

C. School District(s) to be Served: Select all school districts in which the applicant requests approval and agrees to provide SES. School District(s) to be Served (select all school districts in which the applicant requests approval and agrees to provide SES):

~~Indicate the school district(s) for which the applicant will provide services. A list of Title I schools, by district, with the identified School In Need of Improvement (SINI) status may be accessed at <http://www.fldoe.org/bsa/title1/pdf/2007sinilist.pdf>.~~

~~*Applicants that select to serve students at Florida School for Deaf and Blind must be able to provide transcription of materials into large print and Braille. In addition, tutors serving deaf students must be fluent in American Sign Language.~~

~~(List of Districts – No change)~~

D. Applicant Classification of Eligible SES Providers: Check the category that best describes the applicant's organization. Applicant Classification of Eligible SES Providers (check the category that best describes the applicant's organization):

☐ Individual

☐ For-profit company

☐ Non-profit organization

☐ Community based/faith-based organization

☐ Institution of higher education

☐ Local educational agency such as a Florida public school district, a university laboratory school, and Florida Virtual School, that is not identified as in need of improvement, corrective action, or restructuring

☐ Public schools not identified as in need of improvement, corrective action, or restructuring

☐ Charter school not identified as in need of improvement, corrective action, or restructuring

☐ Private school

☐ 21st Century Community Learning Center that is not affiliated with a school district that is identified as in need of improvement, corrective action, or restructuring

- ☐ Public library
- ☐ Distance learning service including computer based instruction
- ☐ In-home tutoring service
- ☐ Family literacy program
- ☐ Child care center serving school-age students
- ☐ Regional educational consortium
- ☐ School districts that are in need of improvement and have obtained a United States Department of Education (US ED) waiver to be providers of SES.
- ☐ Other _____ ☐ Other (Describe): _____

E. Academic and Instructional Information ~~ACADEMIC AND INSTRUCTIONAL INFORMATION~~

1. Subject Area(s): Check all that apply. ~~Subject Area(s) (check all that apply):~~

- ☐ Reading/Language Arts
- ☐ Mathematics
- ☐ Science _____

2. Additional Staff Qualifications: Check all that apply. ~~Additional Staff Qualifications (check all that apply):~~

~~***NOTE***: All tutorial staff must meet the minimum standards for Title I paraprofessionals, as follows:~~

- ~~• Title I paraprofessionals must have a secondary school diploma or its recognized equivalent; and~~
- ~~• Title I paraprofessionals must have at least one of the following:~~

- ~~➤ Completed two years of study at an institution of higher education (equivalent to 60 semester hours)~~
- ~~➤ Obtained an associate's (or higher) degree~~
- ~~➤ Met a rigorous standard of quality and be able to demonstrate, through a formal local academic assessment, knowledge of and the ability to assist in instructing, reading, writing, and mathematics (or, as appropriate, reading readiness, writing readiness, and mathematics readiness).~~

Indicate tutorial staff qualifications below:

- ☐ ~~Meet the minimum standards as Title I paraprofessionals~~
- ☐ ~~Are qualified with a reading certification or endorsement~~
- ☐ ~~Current State of Florida certified teachers~~ Are qualified as state certified or licensed teachers
- ☐ Ability to communicate languages other than English
- ☐ Spanish
- ☐ Haitian Creole
- ☐ Other (Identify) _____

☐ ~~Have experience in teaching students with specific disabilities~~

Please specify disabilities:

- ☐ ~~Have experience in teaching students who are English Language Learners (ELL)~~
- ☐ ~~Have the ability to speak languages other than English~~
- ☐ Spanish
- ☐ Haitian Creole

☐ Other (Identify): _____

☐ ~~Have experience in teaching students with visual impairments~~

☐ ~~Have experience in teaching students with hearing impairments~~

3. Type of Instruction: Check all that apply. ~~Type of Instruction (check all that apply):~~

- ☐ Individual tutoring
- ☐ In-home tutoring. A parent or guardian must be present during and throughout all tutoring sessions.
- ☐ Distance learning instruction (on-line, internet-based, or computer-based instruction)
- ☐ Small group instruction (not to exceed a group size of five students per tutor)
- ☐ Large group instruction (not to exceed a group size of eight students per tutor)

4. Grade Levels to be Served: Check all grades level you will serve for each subject area (Note: The curriculum described in the application must be appropriate for the grade levels indicated):

Grade Levels to be Served (check all that apply):

Reading/Language Arts

K	1	2	3	4	5	6	7	8	9	10	11	12
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Mathematics:

K	1	2	3	4	5	6	7	8	9	10	11	12
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Science

K	1	2	3	4	5	6	7	8	9	10	11	12
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

F. SES Provisions

1. Student Capacity ~~Student Capacity~~

_____ Indicate the minimum number of students that the applicant would serve at each site

_____ ~~Indicate the maximum number of students that the applicant would serve in each school district~~

- ☐ ~~Yes~~ ☐ ~~No~~ Capacity to serve students with disabilities or plans developed under section 504 of the Rehabilitation Act
- ☐ ~~Yes~~ ☐ ~~No~~ Capacity to serve students who are English language learners (ELL)

☐ Capacity to serve students with visual impairments

☐ Capacity to serve students with hearing impairments

2. Location of Services: Check all that apply. ~~Location of Services (check all that apply):~~

- ☐ School campus
- ☐ Provider facility
- ☐ Faith-based center (for example, church, temple, or mosque.)
- ☐ Community-based center

- ☐ Student's home (on-line or computer-based)
☐ Student's home with tutor present
☐ ~~Child Care Center~~
☐ Public site such as public library (describe): _____
☐ Other (describe): _____

Transportation

Will the applicant provide transportation if services are provided at a site other than the student's school?

☐ Yes, transportation will be provided for each student enrolled from the school to the SES site and back to the school or home. Describe transportation service to be provided:

☐ No, transportation will not be provided to students.

G. Operations: Check all that apply. Operations (check all that apply)

1. Day(s) Services will be Provided:

☐ Weekday (Monday – Friday)

☐ Weekend (Saturday – Sunday)

Day(s) Services will be Provided:

☐ Monday ☐ Tuesday ☐ Wednesday ☐ Thursday ☐ Friday

☐ Saturday ☐ Sunday

Frequency of SES sessions for each student:

☐ Every Day ☐ Once a Week ☐ Twice a Week ☐ Three Times a Week

☐ Other (Describe): _____

2. Length of each service session: Cumulative sessions may not exceed two hours per day or six hours per week. Length of each service session (Cumulative sessions may not exceed two hours per day or six hours per week.):

☐ 2 Hours

☐ 1 Hour

☐ 30 Minutes

☐ Other (describe) _____

Can the applicant provide a minimum of 20 hours of tutoring per student?

☐ Yes, the applicant can provide a minimum of 20 hours per student.

☐ No, the applicant cannot provide a minimum of 20 hours per student.

3. Times of Service Times of Service:

☐ Before school

☐ After school

☐ Weekends

☐ Summer (Identify dates, such as June 1 – August 4, 2009):

☐ Other (Describe): _____

H. Cost of Service COST OF SERVICE**1. Rate for Provision of SES: Per Student, Per Hour, Per Type of Instruction**

Rate for Provision of SES: Per Student, Per Hour, Per Type of Instruction

Indicate the rate to serve SES for each student per hour and for each type of instruction offered and indicated in this application under Type of Instruction. For the 2007-2008

school year, the statewide average cost per pupil for SES is \$1,120. More detailed information on the cost per pupil allocation for supplemental educational services may be found at <http://www.fldoe.org/flbpso/xls/perpupil-allocation0708.xls>.

****Note**** The allowable range is between \$5 and up to \$70 \$0 per hour for each student, per hour, and per type of instruction.

RATE PER STUDENT PER HOUR:

\$_____ Small group instruction (group size two to five students per tutor not to exceed five students with one tutor)

\$_____ Large group instruction (group size six to eight students per tutor not to exceed ten students with one tutor)

\$_____ Distance learning including computer-based instruction

\$_____ Individual tutoring

\$_____ In-home tutoring

III. APPLICATION NARRATIVE: To ensure an anonymous review of the application, the company name should not be included in this section.

~~THE FOLLOWING ITEM WILL NOT BE SCORED (0 points):~~

~~Summarize the overall proposed program in a narrative including services provided, diagnostic/prescription process, curriculum, type of instruction, mode of instruction, and major elements of the program.~~

THE FOLLOWING ITEMS WILL BE SCORED (0-5 points per question):

A. The provider must have a demonstrated record of effectiveness in increasing the student academic achievement toward meeting the state achievement standards [NCLB, 20 U.S.C. Section 6316(e)(12)(B)(i)].

1. ~~Provide the~~ Describe specific student achievement data that document evidence that the applicant's company or organization had a positive impact on increasing student achievement toward meeting state achievement standards. Include quantitative data that documents student learning gains.

2. ~~Provide results of state evaluations and parent satisfaction surveys that attest to the program's effectiveness in raising student achievement, if any exist.~~

B. The provider must document that the instruction provided is high quality, based upon research, and designed to increase student academic achievement of eligible students and attain proficiency in meeting the state's academic achievement standards [NCLB, 20 U.S.C. Section 6316(e)(12)(C)(ii)].

2.3. Identify the curriculum and key instructional strategies of the proposed program and quantitative research that documents its effectiveness in increasing student achievement.

3. Identify the key instructional strategies of the proposed program and the quantitative research that documents the effectiveness of the instructional strategies in increasing

student achievement. Examples of instructional strategies may include scaffolding, graphic organizers, use of manipulative resources, effective question and answer techniques, use of prior knowledge, direct instruction, directed practice, and mastery learning. For more information on effective instructional strategies, see <http://www.cpt.fsu.edu/ESE/instrmain.html>.

4. Identify the major design elements of the proposed program and quantitative research that documents the effectiveness of the elements in increasing student achievement. Examples of major elements may include mode of instruction, time on task, or resource materials.

5. Identify the delivery model of the proposed program and the quantitative research that documents the effectiveness in increasing student achievement. Include academic research with specific evidence the delivery model has positive impact on increasing student achievement. Examples of delivery models include group size for instruction, direct instruction, distance learning, computer-based, individual tutoring, in-home tutoring. (NOTE: Homework assistance is not a form of SES.)

3.6. Describe how instruction will be focused, intensive, and tailored to meet the needs of individual students, including students with disabilities, students with 504 plans, and English language learners.

C. The provider must ensure that supplemental educational services are consistent with the instructional program of the local educational agency and the academic standards set forth by the state (Sunshine State Standards) [NCLB, 20 U.S.C. Sections 6316(e)(5)(B) and 6316(e)(12)(B)(ii)].

4.7. Describe the process the applicant will use to ensure that the alignment of the proposed curriculum with is correlated to the Sunshine State Standards for each grade level and content area you plan to serve. For information on Florida's Sunshine State Standards, see <http://www.fldoe.org/bii/curriculum/sss/>.

5.8. Describe the process the applicant will use to ensure the proposed program aligns with the instructional program of the school district(s) in which the applicant intends to serve students. Cite at least one example of the correlation of the proposed program and describe its integration with at least one district that the applicant intends to serve.

6.9. Describe how the process to ensure that the applicant will coordinate supplemental educational services with the classroom instructional program of the students receiving the services. Describe the specific methods, tools, and processes that will be used to execute this coordination.

D. The provider must set measurable achievement goals for each student in consultation with each student's parents and the school district and adhere to the timetable for improving the student's achievement in the student learning plan. The provider must measure the student's progress, and regularly inform the student's parents and teachers regarding the

progress of the student in improving academic achievement as outlined in the student learning plan [NCLB, 20 U.S.C. Sections 6316(e)(3)(A) and (B)].

7.40. Describe how diagnostic assessment data will be used to identify the student's knowledge and skills gaps and set measurable goals for the student learning plan.

8.44 Identify the specific assessment to be administered if district student data are not available for developing the student learning plan. Describe the specific pre- and post-assessments that will be used and the alignment to the Sunshine State Standards.

11. Describe the process and timelines for the development of the student learning plan.

9.12. Describe the procedures and timelines to be used to evaluate, monitor, and report, at a minimum monthly, each student's progress toward meeting the goals as stated on the student learning plan. Address how applicant ensures that the progress reports are understandable to parents and in parents' native language, if feasible. Include frequency of progress reports to student's parents, teachers, and appropriate school district staff.

13. Describe how student attendance and participation data will be collected, verified, and reported to the school district. Include strategies for improving attendance of students who are habitually absent.

14. Describe the process and timelines the applicant will use to ensure that services begin no later than October 15th of each school year. Include steps and timelines the applicant will implement from approval of the application to the provision of services to students.

E. The provider must have the capacity and resources, including financial soundness and compliance with applicable federal, state, and local health, safety, and civil rights laws and regulations, to provide supplemental services to students [NCLB, 20 U.S.C. Sections 6316(e)(12)(B)(iii) and (e)(5)(C)].

10.45. Describe the applicant's infrastructure, including resources such as personnel, buildings, or equipment, and capacity to ensure services begin no later than October 15th of each school year. Include roles and responsibilities of staff within the organization.

16. Describe the process for recruiting, hiring, and initial training of staff.

11.17. Describe the initial training, professional development, and ongoing support provided to tutors to ensure that the proposed program is implemented with fidelity.

12.48. Describe procedures for supervising tutors to ensure the proposed program is implemented with fidelity and that all employees comply with ethical business practices pursuant to assurances found in the Request for Application, such as behavior at provider fairs, quality of tutoring services, and effectiveness of instruction.

13.49. Describe the process and procedures for monitoring the program to ensure the proposed program is implemented with fidelity, such as tutor/student ratio, supervision of students, approved instructional materials, students on task, or beginning services on time.

20. ~~Describe procedures to be used to ensure that all staff providing direct services to students or having access to school grounds comply with fingerprint based background screening pursuant to Section 1012.465, Florida Statutes (Background screening requirements for certain noninstructional school district employees and contractors). For more information, see the related Technical Assistance Paper at http://www.fldoe.org/flbpo/pdf/tap_fingerprint.pdf.~~

IV. FINANCIAL SOUNDNESS – No change.

A. through F. No change.

G. Evidence of financial soundness:

If an applicant has been in business for two or more consecutive years submit:

Financial statements in the form of an income statement for the past two years

OR

Financial audits signed by a certified public accountant for the past two years

If the applicant has been in business for less than two consecutive years submit:

Federal income tax returns of a member of the board of directors, a managing member, or chief officer for the past two years

AND

Documentation from a financial institution showing three months of operating expenses in the form of a line of credit, loan, or a pre-approved loan on behalf of the company

AND

List and submit on attached *Three Months Projected Expense Report* projected expenses to operate SES in Florida for three months. Expenses should include, but not be limited to, information on the resources to cover the costs of salaries, fingerprinting/background screening, insurance policies, instructional materials, marketing, professional development, and facility rental fees. The total projected expenses on the report should match, at a minimum, the amount of the line of credit, loan, or pre-approved loan secured from a financial institution.

☐ Cover Page

☐ Financial Soundness

☐ Copy of general liability insurance with the Department of Education listed as the certificate holder

Copy of evidence of fiscal soundness:

☐ Annual financial statements or fiscal audits

or

☐ Federal income tax returns and financial letter of credit

☐ Evidence of legal qualification to do business in Florida

☐ Verification of business or non-profit status

~~Signed notarized statements on agency letterhead regarding the organization's (each required):~~

☐ ~~Suspension or disbarment from receiving federal funding~~

☐ ~~Any lawsuits filed against organization~~

☐ ~~Denial of approval or removed from approval status from another state~~

☐ ~~Unresolved complaints with the Better Business Bureau~~

☐ ~~List of the Board of Directors or chief officers of the organization, and their titles~~

☐ ~~Assurances with original signature~~

☐ ~~Attachment A~~

☐ ~~Attachment B~~

FINANCIAL SOUNDNESS

To prove financial soundness, applicants must mail or hand deliver a copy of the following documents to the Bureau of Public School Options at FDOE.

Note: Public schools and school districts need only submit supporting documentation for 1, 5, and 6.

1. ~~Evidence of applicant's current commercial general liability insurance in the form of a certificate of insurance with the Department of Education, Bureau of Public School Options listed as the certificate holder. The name of the applicant must match the name on the certificate.~~

2. ~~Evidence of the applicant's fiscal soundness. Submit:~~

• ~~annual financial statements or fiscal audits signed by a certified public accountant for the past two years, or~~

• ~~federal income tax returns for the past two years along with a letter of credit from a financial institution.~~

3. ~~A copy of the most recent registration with the Florida Department of State (www.sunbiz.org), showing evidence that the applicant is legally qualified to do business in Florida.~~

4. ~~Verification of business status or non-profit status. For example, an Internal Revenue Service (IRS) letter with FEIN or certificate issued by government.~~

5. ~~Signed notarized statements on applicant's letterhead by the individual authorized to act on behalf of the organization attesting to the following:~~

• ~~The organization has not been suspended or disbarred from receiving federal funding. If yes, explain the circumstances for suspension or disbarment.~~

• ~~The organization has had no lawsuits filed against them for educational or fiscal mismanagement, civil rights violations, criminal acts, or other reasons. If yes, provide information and the outcome for each instance.~~

• ~~The organization has not been denied approval nor has its approval status as an SES provider been revoked. If the organization has been denied approval or its approval status as an SES provider has been revoked, identify such state(s) or district(s) and the reason(s) for such denial or revocation.~~

- The organization does not have any unresolved complaints with the Better Business Bureau or FDOE. If the organization does have any known unresolved complaints, provide an explanation of the complaint(s) and results.

6. A complete list of the board of directors and chief officers of the organization and their titles.

Three Months Projected Expense Report – No change.

V. ATTACHMENT A: GENERAL ASSURANCES

Execution Requirements

The assurance pages must contain no revisions, additions, or deletions, and must bear an original signature of the agency head in blue ink to distinguish it from a copy or facsimile. The printed name and original signature must match.

Assurances signed by officials other than the head of the providing agency must have a letter signed by the agency head, or documentation citing action of the governing body delegating authority to the person to sign on behalf of said official.

As the duly authorized representative of this applicant, I certify agreement and compliance with all of the following assurances and conditions: (No Change items 1-23)

I, THE UNDERSIGNED, CERTIFY that I am an individual authorized to act on behalf of the organization in submitting this application and assurances and that all of the information provided herein is true and accurate, to the best of my knowledge. I understand that, if any of the information contained herein has been misrepresented, that may constitute grounds for denying the applicant's request for approval to be placed on the list of approved supplemental educational services providers or for removal from that same list. I further certify that the organization will comply with all of the assurances set forth herein. Failure to comply with the assurances during the school year may result in removal from the state approved list and potential ineligibility to re-apply during the following two-year period.

_____ Signature of Applicant	_____ Date signed
_____ Printed Name	_____ Name of Agency/Company/Group
_____ Title of Signing Agent	

Note:

1. Printed name and original signature must match.
 2. Use blue ink color for original signature.
 3. "By", "for," or initials will not be accepted.
 4. Rubber stamp signatures will not be accepted.
24. Applicant assures that it has not been removed and permanently barred from providing supplemental educational services in any state or district.

25. Applicants who selected to serve students at Florida School for Deaf and Blind and indicated a capacity to serve students with visual impairments assures that it will provide transcription of materials into large print and Braille.

26. Applicants who selected to serve students at Florida School for Deaf and Blind and indicated a capacity to serve students with hearing impairments assures that it will provide tutors fluent in American Sign Language.

27. Applicant assures that all tutorial staff meet the minimum standards for Title I paraprofessionals, as follows:

- Title I paraprofessionals must have a secondary school diploma or its recognized equivalent; and
- Title I paraprofessionals must have at least one of the following:
 - Completed two years of study at an institution of higher education (equivalent to 60 semester hours)
 - Obtained an associate's (or higher) degree
 - Met a rigorous standard of quality and be able to demonstrate, through a formal local academic assessment, knowledge of and the ability to assist in instructing, reading, writing, and mathematics (or, as appropriate, reading readiness, writing readiness, and mathematics readiness).

28. Applicant assures that cumulative sessions shall not exceed two hours per day or six hours per week.

29. Applicant understands that the allowable range is between \$5 and up to \$70 per hour for each student, and per type of instruction.

ATTACHMENT B: INTERNET STATEMENT OF ASSURANCES

Execution Requirements

The assurance pages must contain no revisions, additions, or deletions, and must bear an original signature of the agency head in blue ink to distinguish it from a copy or facsimile. The printed name and original signature must match.

Assurances signed by officials other than the head of the providing agency must have a letter signed by the agency head, or documentation citing action of the governing body delegating authority to the person to sign on behalf of said official.

The following guidelines define appropriate use of the Internet.

30. Applicant understands that transmitting any material in violation of any U.S. or state regulation or school board policy is prohibited. This includes, but is not limited to, copyrighted material and threatening or obscene material.
31. Applicant understands that all content transmitted via e-mail or the Internet shall be secular, neutral, and non-ideological.
32. Applicants providing on-line instruction agree to ensure the safety of all students while accessing the internet. It is the responsibility of the applicant to block all unsafe web content.

33. Applicant understands that ~~h~~Hate mail, harassment, discriminatory remarks, and other antisocial behaviors are unacceptable in Internet and other network communication.

34. Applicant understands that ~~a~~All information accessible via the Internet should be assumed to be private property and subject to copyright protection. Internet sources should be credited appropriately, as with the use of any copyrighted material.

35. Applicant has a responsibility to respect the privacy and property of students. Applicant should not intentionally seek information about, obtain copies of, or modify, files, data, or passwords of other users.

36. For the safety of students, applicant must not request or provide any personal information, such as addresses, phone numbers, or photographs.

37. Applicant should not expect that files are private. State and school district representatives, including school administrators, as well as parents, may review files and communications at any time to ensure that the network is being used responsibly. Applicant must gain written parental permission before communicating with students under the age of 13 via e-mail or the Internet.

38. Applicant has a responsibility to protect the student users from marketing and Spam.

39. Applicants shall ensure that the primary purpose of a computer in the SES program is instructional. ~~all computer equipment provided to~~ When a computer provided by the applicant is used for instructional purposes, the student is allowed to keep the computer ~~is returned to the applicant upon completion of SES.~~ If students will be using a school computer to access information from an applicant, the applicant must abide by all school and school district policies and procedures regarding computer/Internet use.

40. Applicant agrees to comply with all assurances set forth in this application.

I, THE UNDERSIGNED, CERTIFY that I am an individual authorized to act on behalf of the organization in submitting this application and assurances and that all of the information provided herein is true and accurate, to the best of my knowledge. All tutors/instructors employed by this organization will be notified of all guidelines regarding appropriate use of the Internet and that as a condition of employment with the provider, all employees who will provide SES shall agree to comply with the guidelines. I understand that, if any of the information contained herein has been misrepresented, that may constitute grounds for denying the applicant's request for approval to be placed on the list of approved supplemental educational services providers or for removal from that same list. I further certify that the organization will comply with all of the assurances set forth herein. Failure to comply with the assurances during the

school year may result in removal from the state-approved list and potential ineligibility to re-apply during the following two-year period.

~~*I, the undersigned, agree that all tutors/instructors employed by this organization will be notified of all guidelines regarding appropriate use of the Internet and that as a condition of employment with the provider, all employees who will provide SES shall agree to comply with the guidelines. Failure to comply with the assurances during the school year may result in removal from the state approved list and potential ineligibility to re-apply during the following two year period.*~~

Signature of Applicant

Date signed

Printed Name

Name of Agency/
Company/Group

Title of Signing Agent

Note:

1. Printed name and original signature must match.
2. Use blue ink for original signature.
3. "By", "for," or initials will not be accepted.
4. Rubber stamp signatures will not be accepted.

DEPARTMENT OF REVENUE

Miscellaneous Tax

RULE NOS.:

12B-5.121

12B-5.130

12B-5.150

RULE TITLES:

Temporary Licenses Issued Under a
Declared Emergency

Refunds

Public Use Forms

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. 35, No. 5, February 6, 2009 issue of the Florida Administrative Weekly.

In response to written comments received from the Joint Administrative Committee, dated March 12, 2009, subparagraph 4. of paragraph (b) of subsection (6) of proposed Rule 12B-5.121, F.A.C., has been removed. Prior to removal, that subparagraph read:

4. In addition to the collection allowance deductions authorized in subparagraphs 2. and 3., temporary importers who sell gasoline, gasohol, and undyed diesel to retail dealers or ene-users may take a deduction of 1.1 percent (.011) of the taxes collected under Section 206.41(1)(d), (e), and (f), and Section 206.87(1)(b), (c), and (d), F.S., only when the return and payment are remitted timely.

Paragraph (c) of subsection (6) of proposed Rule 12B-5.121, F.A.C., has been renumbered and changed, so that, when adopted, that paragraph will read:

(d) Carrier Information Return. Temporary carriers of gasoline, gasohol, diesel, undyed diesel, and aviation fuel are required to report all gallons of fuel exported from Florida on a Petroleum Carrier Information Return (Form DR-309637, incorporated by reference in Rule 12B-5.150, F.A.C.).

Paragraph (b) of subsection (1) of Rule 12B-5.130, F.A.C., has been changed, so that, when adopted, that paragraph will read:

(b) Prior to qualifying for a refund of taxes paid on motor fuel used for agricultural, aquacultural, ~~and~~ commercial fishing, and commercial aviation purposes, every person is required to file an Application for Fuel Tax Refund Permit (Form DR-185, incorporated by reference in Rule 12B-5.150, F.A.C.) with the Department and obtain a Fuel Tax Refund Permit ~~(Form DR-192, incorporated by reference in Rule 12B-5.150, F.A.C.).~~

The definition of the term "importer" contained in Form DR-156T, Florida Temporary Fuel Tax Application, incorporated by reference in the proposed amendments to Rule 12B-5.150, F.A.C., Public Use Forms, has been changed, so that, when adopted, that definition will read:

"Importer" means any person that has met the requirements of Section 206.051, Florida Statutes (F.S.), and is licensed by the Department to import motor fuel or diesel fuel upon which no precollection of tax has occurred, other than through bulk transfer, into this state by common carrier or company-owned trucks.

Subsection (5) of proposed Rule 12B-5.150, F.A.C., Public Use Forms, has been changed, so that, when adopted, that subsection will read:

Form Number	Title	Effective Date
(5) DR-156T	<u>Florida Temporary Fuel Tax Application (R. 03/09)</u>	_____

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 CORRECTIONS

RULE NO.:	RULE TITLE:
33-601.105	Restoration of Forfeited Gain Time

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. 35, No. 7, February 20, 2009 issue of the Florida Administrative Weekly.

33-601.105 Restoration of Forfeited Gain Time.
(1) through (2) No change.

(3) How processed. Restoration of gain time will be considered only when the inmate has met the criteria specified in subsection (2) of this rule. There is no entitlement for consideration based upon an inmate's request. The final approving authority for restoration of forfeited gain time will be the ~~Deputy~~ Assistant Secretary of Institutions ~~—Program.~~ The institution where the inmate is assigned will be notified and the facility staff will notify the inmate of the decision.

Rulemaking Specific Authority 944.09, 944.275 FS. Law Implemented 944.09, 944.275, 944.28 FS. History—New 11-27-84, Formerly 33-11.15, Amended 10-12-89, 8-29-91, 10-13-93, Formerly 33-11.015, Amended 8-30-01, 4-30-02, 4-10-08, _____.

REGIONAL UTILITY AUTHORITIES

Big Bend Water Authority

RULE NOS.:	RULE TITLES:
49E-1.001	Agency Description
49E-1.002	Office Hours, Location
49E-1.003	Boundaries
49E-1.004	Statutes and Rules
49E-1.005	Delegation of Authority by the Board of Directors
49E-1.006	Designation of Agency Clerk and Official Reporter
49E-1.007	Maintenance of Records
49E-1.008	General Description of Agency Operations
49E-1.009	Adoption of Model Rules of Procedure
49E-1.010	Public Information and Inspection and Copying of Records

NOTICE OF WITHDRAWAL

Notice is hereby given that the above rule, as noticed in Vol. 34, No. 16, April 18, 2008 issue of the Florida Administrative Weekly has been withdrawn.

DEPARTMENT OF MANAGEMENT SERVICES

Personnel Management System

RULE NO.:	RULE TITLE:
60L-32.007	Selected Exempt Service Extraordinary Payment Plan

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.

As a result of comments received and read into the record at the public hearing held on February 13, 2009 and March 27, 2009, the following changes have been made to the rule:

60L-32.007 Selected Exempt Service Extraordinary Payment Plan.

Notwithstanding the provisions of subsection 60L-34.0031(3), F.A.C., an agency/~~department~~ may propose, for Department approval, an agency-wide plan to compensate excluded Selected Exempt Service (SES) employees below the bureau chief or bureau chief comparable level who are directed to work hours in excess of the contracted hours in the regular work period in response to an unforeseen extraordinary event or occurrence, to provide agency mission critical services to the public due to extraordinary circumstances or critical agency/department need subject to the following:

(1) The plan must be activated in writing by the agency/~~department~~ head or designee and must document how the unforeseen extraordinary event or occurrence impacts recipients of agency mission critical services to the critical agency/department need, or extraordinary circumstances which include danger or potential danger to life, physical or mental health of employees, clients, the public or to other recipients of services provided by the agency which justify plan activation.

(2) No change.

(3) The agency head or designee shall notify the Executive Office of the Governor, the President of the Senate, the Speaker of the House and the Department immediately upon each plan activation or extension by providing a copy of the activation or extension letter and any supporting documentation.

(4)(3) No change.

(5) All hours worked in excess of the contracted hours in the regular work period and compensated as a result of a plan activation for an extraordinary event or occurrence shall be recorded in the State Personnel System Human Resource Information System using the code designated for SES Extraordinary Pay unless otherwise instructed by the Department.

(6)(4) No change.

The provisions of this rule section shall expire effective July 1, 2012.

Rulemaking Specific Authority 110.1055, 110.201(1) 110.602, 110.605(1), (2) FS. Law Implemented 110.201, 110.603 FS. History—New _____.

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

Construction Industry Licensing Board

RULE NO.: RULE TITLE:
61G4-21.005 Payment of Claims
NOTICE OF CORRECTION

Notice is hereby given that the following correction has been made to the proposed rule in Vol. 35, No. 5, February 6, 2009 issue of the Florida Administrative Weekly.

The correction is in response to concerns by the Joint Administrative Procedures Committee in a letter dated March 23, 2009, regarding the Rule Development publication date.

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW shall be corrected to read as: December 24, 2008.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: G. W. Harrell, Executive Director, Construction Industry Licensing Board, P. O. Box 5257, Tallahassee, Florida 32314-5257

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

Board of Acupuncture

RULE NO.: RULE TITLE:
64B1-4.0011 Documentation Necessary for
Licensure Application
NOTICE OF CHANGE

Notice is hereby given that the following changes have been made to the proposed rule in accordance with Section 120.54(3)(d)1., F.S., published in Vol. 35, No. 11, March 20, 2009 issue of the Florida Administrative Weekly.

The change is in response to concerns stated by the Joint Administrative Procedures Committee. The change is as follows:

Rule 64B1-4.0011(1) shall read as follows:

(1) A properly completed application shall be submitted on Department of Health Form DH-MQA 1116-03/09, adopted and incorporated herein by reference as this Board's application and available on the web at www.doh.state.fl.us/mqa. To complete the application attach the appropriate fees and supporting documents and submit it to the Board Office.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Kaye Howerton, Executive Director, Board of Acupuncture, 4052 Bald Cypress Way, Bin #C06, Tallahassee, Florida 32314-3256

DEPARTMENT OF HEALTH

Board of Acupuncture

RULE NO.: RULE TITLE:
64B1-4.0012 English Proficiency Requirement for
Licensure
NOTICE OF CHANGE

Notice is hereby given that the following changes have been made to the proposed rule in accordance with Section 120.54(3)(d)1., F.S., published in Vol. 35, No. 13, April 3, 2009 issue of the Florida Administrative Weekly.

The correction is in response to a typographical error made in Rulemaking Authority.

Rulemaking Authority shall be corrected to read as: 457.104, 457.105(2)(a) F.S.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Kaye Howerton, Executive Director, Board of Acupuncture, 4052 Bald Cypress Way, Bin #C06, Tallahassee, Florida 32314-3256

DEPARTMENT OF HEALTH

Board of Medicine

RULE NO.:	RULE TITLE:
64B8-31.005	Anesthesiologist Assistant Protocols and Performance

NOTICE OF CORRECTION

Notice is hereby given that the following correction has been made to the proposed rule in Vol. 35, No. 7, February 20, 2009 issue of the Florida Administrative Weekly.

The rule notice inadvertently listed the rule development date as January 2, 2009. The correct information for the publication of the rule development notice is Vol. 34, No. 53, of the December 31, 2008, issue of the Florida Administrative Weekly. This correction does not affect the substance of the rule. The person to be contacted regarding this rule is: Larry McPherson, Jr., Executive Director, Board of Medicine, 4052 Bald Cypress Way, Bin #C03, Tallahassee, Florida 32399-3253.

DEPARTMENT OF HEALTH

Dietetics and Nutrition Practices Council

RULE NOS.:	RULE TITLES:
64B8-42.001	Licensure By Endorsement
64B8-42.002	Licensure by Examination

NOTICE OF CHANGE

Notice is hereby given that the following change has been made by the Board to Rule 64B8-42.001, F.A.C., to add the title of form DH-MQA 1161, ND APP. and the website where the form can be obtained. The following change has been made by the Board to Rule 64B8-42.001, F.A.C., to delete reference to "Incorporated by reference", with Section 120.54(3)(d)1., F.S., published in Vol. 34, No. 51, of the December 19, 2008, issue of the Florida Administrative Weekly.

Rule 64B8-42.001 shall read as:

64B8-42.001 Licensure by Endorsement.

Each applicant for certification as a dietitian/nutritionist by endorsement shall file the Electroligist Application, DOH Form DH-MQA 1161, ND APP, Rev 12/2008, incorporated by reference, which can be accessed at www.doh.state.fl.us/mqa, and demonstrate the following:

(1) through (2) No change.

Rulemaking Specific Authority 468.507, 468.508 FS. Law Implemented 468.507, 468.513 FS. History—New 4-9-89, Formerly 21M-48.001, 61F6-48.001, 59R-42.001, Amended_____.

Rule 64B8-42.002 shall read as:

64B8-42.002 Licensure by Examination.

(1) Every applicant for certification by examination shall file the Application for Dietitian/Nutritionist Licensure, DOH Form DH-MQA 1161, ND APP, Rev. 12/2008, which can be accessed at www.doh.state.fl.us/mqa, and demonstrate to the Council that he meets one of the following:

(a)1. Has a baccalaureate or post baccalaureate degree with a major in human nutrition, food and nutrition, dietetics, food management or equivalent major as determined by the Council from a school or program accredited by the appropriate accrediting agency recognized by the Council on Post-secondary Accreditation or its successor and the United States Department of Education and

2. Has completed 900 hours of planned and continuous supervised practice in dietetics or nutrition, or has education or experience determined to be equivalent by the Council as described in subsection (3); or

(b)1. Has an academic degree with a major course of study in human nutrition, food and nutrition, dietetics, or food management from a foreign country, provided that degree has been validated by an accrediting agency approved by the U.S. Department of Education as equivalent to the baccalaureate or post baccalaureate degree conferred by a regionally accredited college or university in the United States; and

2. Has completed 900 hours of planned and continuous supervised practice in dietetics or nutrition, or has education or experience determined to be equivalent by the Council as described in subsection (3).

(2) through (5) No change.

Rulemaking Specific Authority 456.017(1), 468.507, 468.508 FS. Law Implemented 456.027, 468.509 FS. History—New 4-9-89, Amended 11-28-90, 3-24-91, 11-9-92, 5-6-93, Formerly 21M-48.002, Amended 11-4-93, 6-9-94, Formerly 61F6-48.002, Amended 11-12-95, Formerly 59R-42.002, Amended 8-19-99, 3-9-08,_____.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Allen Hall, Executive Director, Board of Opticianry/MQA, 4052 Bald Cypress Way, Bin #C05, Tallahassee, Florida 32399-3255

DEPARTMENT OF HEALTH

Board of Nursing

RULE NO.:	RULE TITLE:
64B9-5.001	Definitions

NOTICE OF WITHDRAWAL

Notice is hereby given that the above rule, as noticed in Vol. 34, No. 49, December 5, 2008 issue of the Florida Administrative Weekly has been withdrawn.

DEPARTMENT OF HEALTH**Board of Opticianry**

RULE NO.: 64B12-9.0015
RULE TITLE: Application for Examination and Licensure

NOTICE OF CHANGE

Notice is hereby given that the following change has been made by the Board to the proposed rule to modify subsection (1) rule language to correct the form revision date, and, on the Application for Licensure Examination Form, to modify history questions, and, in response to the Joint Administrative Procedures Committee, make several technical changes, in accordance with subparagraph 120.54(3)(d)1., F.S., published in Vol. 35, No. 2, of the January 16, 2009, issue of the Florida Administrative Weekly. No Statement of Estimated Regulatory Cost was prepared. It was determined that this rule will not affect small businesses. Any person who wishes to provide information regarding the statement of estimated costs, or to provide a proposal for a lower regulatory cost alternative must do so in writing within 21 days of this notice.

64B12-9.0015(1) shall read as:

(1) Any person seeking licensure as an optician shall submit to the Board a completed application to take the examination on Form DH-MQA 1065, Application for Licensure Examination, (revised 03/09 ~~11/08~~), hereby adopted and incorporated by reference, which can be obtained from the Board of Opticianry's website at www.doh.state.fl.us/mqa/opticianry ~~3/02 provided by the Department~~. The application shall be accompanied with the application fee specified in Rule 64B12-11.002, F.A.C., which is non-refundable, and the examination fee specified in Rule 64B-1.016, F.A.C., which shall be refunded if the applicant is denied examination or does not timely complete application.

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

DEPARTMENT OF HEALTH**Board of Opticianry**

RULE NO.: 64B12-16.003
RULE TITLE: Apprenticeship Requirements and Training Program

NOTICE OF WITHDRAWAL

Notice is hereby given that the above Notice of Change, as noticed in Vol. 35, No. 12, on March 27, 2009, Florida Administrative Weekly has been withdrawn.

DEPARTMENT OF HEALTH**Board of Opticianry**

RULE NO.: 64B12-16.003
RULE TITLE: Apprenticeship Requirements and Training Program

NOTICE OF CHANGE

Notice is hereby given that the following change has been made by the Board to the proposed rule to modify the rule language and Apprentice Optician Application to modify two history questions on the application and to address concerns raised by JAPC about sponsor information in accordance with subparagraph 120.54(3)(d)1., F.S., published in Vol. 35, No. 2, of the January 16, 2009, issue of the Florida Administrative Weekly. No Statement of Estimated Regulatory Cost was prepared. It was determined that this rule will not affect small businesses. Any person who wishes to provide information regarding the statement of estimated costs, or to provide a proposal for a lower regulatory cost alternative must do so in writing within 21 days of this notice.

The rule shall read as:

64B12-16.003 Apprenticeship Requirements and Training Program.

(1) Any persons seeking to be registered as an apprentice optician shall submit to the Board an Apprentice Optician Application (Form DH-MQA 1180, revised 03/09), hereby adopted and incorporated by reference, which can be obtained from the Board's website at www.doh.state.fl.us/mqa/opticianry. All apprenticeship training must be conducted by the sponsor(s) with whom the apprentice is currently registered with the Agency. Credits shall be granted to apprentices if the training is properly documented according to this rule. An apprentice shall not receive credit for any training received from a person other than the properly registered sponsor(s). However, an apprentice can receive credit for attending continuing education courses by a board-approved provider pursuant to this rule.

(2) An apprentice shall have no more than two sponsors at any given time. If an apprentice has two sponsors, one sponsor shall be the primary sponsor responsible for the secondary sponsor and the apprentice. The primary sponsor shall be responsible for the completion, filing, signature and verification of the Apprenticeship Sponsor ~~Attestation~~ Form (DH-MQA 1063, revised 11/08 ~~1/02~~) which is hereby adopted and incorporated by reference, which can be obtained from the Board's website at www.doh.state.fl.us/mqa/opticianry and is available from the Board office at Department of Health, Board of Opticianry, 4052 Bald Cypress Way, Bin #C08, Tallahassee, Florida 32399-3258. The secondary sponsor may work with the apprentice in a store or office other than the primary store or office as long as the apprentice works under the apprenticeship requirements and training program.

(3) through (5) No change.

(6) Total training received by an apprentice during apprenticeship must consist of training in the following subject areas:

(a) through (g) No change.

(h) Filling contact lens prescriptions, fitting, adapting and dispensing contact lenses if the sponsor is a Board-Certified optician, Florida-licensed optometrist or Florida-licensed physician, ophthalmologist, or an optician pursuant to subsection 64B12-10.009(1), F.A.C., or the apprentice must complete a Board-approved course equivalent to 32 hours as a substitute for working experience with contact lenses. Such course must include the following instruction:

- 1 hour – contact lens history
- 2 hours – anatomy and physiology of the eye
- 1 hour – patient selection
- 2 hours – contact lens technology
- 2 hours – basic optics for contact lenses
- 4 hours – basic fitting methods
- 1 hour – patient follow-up
- 1 hour – data collection and record keeping
- 2 hours – ordering and verification
- 2 hours – patient instruction
- 2 hours – problem solving
- 2 hours – specialty fittings
- 1 hour – ANSI Standards
- 1 hour – Florida laws and rules
- 8 hours – hands on practice

Although the lecture sessions may be open to any number of students, the hands on sessions shall be limited to 20 students per qualified instructor and three assistant instructors. A qualified instructor is one who has been a Board-Certified optician, licensed optometrist or ophthalmologist and actively engaged in contact lens fitting for 2 years immediately preceding instructorship or actively engaged as a contact lens instructor in an approved school of opticianry, an accredited school of optometry or an accredited medical school. The assistants must be Board-Certified or equally qualified to the instructor. Any request for course approval must be submitted to the Board 30 days prior to the next Board meeting and must be reviewed every two years. The apprentice must complete the entire course within 31 days.

Rulemaking Specific Authority 484.005 FS. Law Implemented 484.002, 484.007(1)(d)4. FS. History–New 10-12-80, Amended 8-31-83, 8-30-84, Formerly 21P-16.03, Amended 3-5-87, 7-15-87, 1-26-88, 3-30-89, 10-17-90, 5-27-92, 9-30-92, 1-27-93, Formerly 21P-16.003, Amended 9-14-93, 5-2-94, Formerly 61G13-16.003, Amended 2-21-96, 4-23-97, Formerly 59U-16.003, Amended 10-1-97, 2-16-99, 6-25-02, 4-11-06, 9-27-06, 4-19-07, 11-20-07,_____.

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

DEPARTMENT OF HEALTH

Board of Osteopathic Medicine

RULE NO.:

RULE TITLE:

64B15-7.005

Anesthesiologist Assistant Protocols and Performance

NOTICE OF CORRECTION

Notice is hereby given that the following correction has been made to the proposed rule in Vol. 35, No. 7, February 20, 2009 issue of the Florida Administrative Weekly. The rule notice inadvertently listed the rule development date as January 2, 2009. The correct information for the publication of the rule development notice is Vol. 34, No. 53, of the December 31, 2008, issue of the Florida Administrative Weekly. The person to be contacted regarding this rule is: Kaye Howerton, Executive Director, Board of Osteopathic Medicine, 4052 Bald Cypress Way, Bin #C06, Tallahassee, Florida 32399-3256.

DEPARTMENT OF HEALTH

Board of Speech-Language Pathology and Audiology

RULE NO.:

RULE TITLE:

64B20-6.001

Continuing Education as a Condition for Renewal or Reactivation

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. 49, December 5, 2008 issue of the Florida Administrative Weekly.

These changes are being made in response to comments received from the Joint Administrative Procedures Committee. The changes are as follows:

(4) Two hours of continuing education credit per year in the area of ethics shall be granted a licensee or certified assistant for attendance at a regularly scheduled face-to-face Board meeting. Licensees or certified assistants appearing before the Board on any disciplinary proceeding shall not be entitled to claim any continuing education credit for that particular Board meeting. Licensees must attend at least two hours of a Board meeting to be granted credit under this section. Up to two hours of continuing education credit in the area of ethics may be earned on an hour for hour basis by physically attending Board meetings, provided that: Proof of attendance shall be documented on Form SPA-10/AHCA, entitled, Proof of Attendance, effective 3-28-95, which is incorporated by reference herein. Copies of said form shall be provided at Board meetings.

1. The licensee signs in with the Executive Director of the Board prior to the beginning of the meeting;

2. The licensee remains in continuous attendance at the meeting;

3. The licensee signs out of the meeting with the Executive Director of the Board in a prearranged time and manner.

4. The licensee does not have a related discipline or licensure matter on the agenda for the same meeting day.

THE PERSON TO BE CONTACTED REGARDING THESE CHANGES IS: Kaye Howerton, Executive Director, Board of Speech Language Pathology, 4052 Bald Cypress Way, Bin #C06, Tallahassee, Florida 32399-3256

DEPARTMENT OF HEALTH

Board of Respiratory Care

RULE NO.: 64B32-2.001
RULE TITLE: License by Endorsement

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. 35, No. 11, March 20, 2009 issue of the Florida Administrative Weekly.

The correction is to correct a typographical error. The correction is as follows:

The Rule Development publication date on the rule notice should read as December 24, 2008.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Allen Hall, Executive Director, Board of Respiratory Care Specialists/MQA, 4052 Bald Cypress Way, Bin #C05, Tallahassee, Florida 32399-3255

DEPARTMENT OF HEALTH

Division of Environmental Health

RULE NOS.: 64E-6.005, 64E-6.008, 64E-6.009
RULE TITLES: Location and Installation, System Size Determinations, Alternative Systems

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. 35, No. 9, March 6, 2009 issue of the Florida Administrative Weekly.

64E-6.005 Location and Installation

(1) through (3) No change.

(4) Suitable, unobstructed land shall be available for the installation and proper functioning of the system. ~~At least 75 percent of the unobstructed area must meet minimum setback requirements of subsections (1) and (3) above to allow for drainfield repair or system expansion.~~ The minimum unobstructed area shall:

(a) Be at least 1.5 ~~2~~ times as large as the drainfield absorption area required by rule. For example, if a 200 square feet drainfield is required, the total unobstructed area required, inclusive of the 200 square feet drainfield area, would be 300 ~~400~~ square feet. Unobstructed soil area between drain trenches shall be included in the unobstructed area calculation.

(b) Be contiguous to the drainfield.

(c) Be in addition to the setbacks required in subsections (1), (2), and (3) above.

(5) through (9) No change.

Rulemaking Specific Authority 381.0065(3)(a), 489.553, 489.557(1) FS. Law Implemented 381.0065, 489.553 FS. History—New 12-22-82, Amended 2-5-85, Formerly 10D-6.46, Amended 3-17-92, 1-3-95, Formerly 10D-6.046, Amended 11-19-97, 2-3-98, 3-22-00, 5-24-04, _____.

64E-6.008 System Size Determinations.

(1) through (4) No change.

(5) The minimum absorption area for standard subsurface drainfield systems, graywater drainfield systems, and filled systems shall be based on estimated sewage flows and Table III so long as estimated sewage flows are 200 gallons per day or higher. When estimated sewage flows are less than 200 gallons per day, system size shall be based on a minimum of 200 gallons per day.

TABLE III

For Sizing of Drainfields Other Than Mounds

U.S. DEPARTMENT OF AGRICULTURE SOIL TEXTURAL CLASSIFICATION	SOIL TEXTURE LIMITATION (PERCOLATION RATE)	MAXIMUM SEWAGE LOADING RATE TO TRENCH & BED ABSORPTION SURFACE IN GALLONS PER SQUARE FOOT PER DAY	
		TRENCH	BED
		0.80 1.20	0.60 0.80
Sand; Coarse Sand not associated with a seasonal water table of less than 48 inches;	Slightly limited (Less than 2 min/inch)		

and Loamy Coarse Sand			
Loamy Sand; Sandy Loam;	Slightly limited		
Coarse Sandy Loam;	(2-4 min/inch)	<u>0.80</u> 0.90	<u>0.60</u> 0.70
Fine Sand Loam; Fine Sandy Loam;	Moderately limited		
Silt Loam; Very Fine	(5-10 min/inch)	0.65	0.35
Sand; Very Fine Sandy			
Loam; Loamy Fine Sand;			
Loamy Very Fine Sand;			
Sandy clay loam;			
Clay Loam; Silty Clay	Moderately limited	0.35	0.20
Loam; Sandy Clay;	(Greater than 15		
Silty Clay, Silt	min/inch but not		
	exceeding 30 min/inch)		
Clay; Organic Soils;	Severely limited		Unsatisfactory for
Hardpan; Bedrock	(Greater than 30		standard subsurface
	min/inch)		system
Coarse Sand with	Severely limited		Unsatisfactory for
an estimated wet season	(Less than 1		standard subsurface system
high water table within	min/inch and a		
48 inches of the bottom	water table less		
of the proposed	than 4 feet below		
drainfield; Gravel or	the drainfield)		
Fractured Rock or			
Oolitic Limestone			

Footnotes to Table III

1. through 2. No change.

3. When all other site conditions are favorable, horizons or strata of moderately or severely limited soil may be replaced with slightly limited soil or soil of the same texture as the satisfactory slightly limited permeable layer lying below the replaced layer. The slightly limited permeable layer below the replaced layer shall be identified within the soil profile which was submitted as part of the permit application. The resulting soil profile must show complete removal of the moderately or severely limited soil layer being replaced and must be satisfactory to a minimum depth of 54 inches beneath the bottom surface of the proposed drainfield. The width of the replacement area shall be at least 2 feet wider and longer than the drain trench and for absorption beds shall include an area at least 2 feet wider and longer than the proposed bed. Drainfields shall be centered in the replaced area. Where at least 33 percent of the moderately limited soils at depths greater than 54 inches below the bottom of the drainfield have been removed to the depth of slightly limited soil, drainfield sizing shall be based on the following sewage loading rates. Where severely limited soils are being removed at depths greater than 54 inches below the bottom of the drainfield, 100 percent of the severely limited soils at depths greater than 54 inches shall be removed down to the depth of an underlying slightly limited soil. Maximum sewage loading rates for standard subsurface systems installed in replacement areas shall be 0.80 ~~0.90~~ gallons per square foot per day for trench systems and 0.60 ~~0.70~~ gallon per square foot

per day for absorption beds in slightly limited soil textures. Where moderately limited soil materials are found beneath the proposed drainfield, and where system sizing is based on that moderately limited soil, soil replacements of less than 33% may be permitted.

4. Where coarse sand, gravel, or oolitic limestone directly underlies the drainfield area, the site shall be approved provided a minimum depth of 42 inches of the rapidly percolating soil beneath the bottom absorption surface of the drainfield and a minimum 12 inches of rapidly percolating soil contiguous to the drainfield sidewall absorption surfaces, is replaced with slightly limited soil material. Where such replacement method is utilized, the drainfield size shall be determined using a maximum sewage application rate of 0.80 gallons per square foot per day of drainfield in trenches and 0.60 ~~0.70~~ gallon per square foot per day for drainfield absorption beds.

5. No change.

(6) No change.

Rulemaking Specifie Authority 381.0065(3)(a) FS. Law Implemented 381.0065 FS. History--New 12-22-82, Amended 2-5-85, Formerly 10D-6.48, Amended 3-17-92, 1-3-95, Formerly 10D-6.048, Amended 11-19-97, Amended 3-22-00, 9-5-00, 11-26-06,_____.

64E-6.009 Alternative Systems.

Unnumbered introductory paragraph – No change.

(1) through (2) No change.

(3) Mound systems – are used to overcome certain limiting site conditions such as an elevated seasonal high water table, shallow permeable soil overlying slowly permeable soil and shallow permeable soil located over creviced or porous bedrock. Special installation instructions or design techniques to suit a particular site shall, using the criteria in subsection 64E-6.004(4), F.A.C., be specified on the construction permit in addition to the following general requirements.

(a) through (c) No change.

(d) Where the soil material underlying a mound system is of a similar slightly limited textural material as that used in system construction, the mound drainfield size shall be based

on estimated sewage flows as specified in Rule 64E-6.008, F.A.C., Table I and upon the quality of fill material utilized in the mound system. When estimated sewage flows are calculated to be less than 200 gallons per day, specifications for system design shall be based on a minimum flow of 200 gallons per day. Maximum sewage loading rates for soils used in mound construction shall be in compliance with the following:

Fill Material	Maximum Sewage Loading Rate to Mound Drain Trench Bottom Surface in gallons per square foot per day	Maximum Sewage Loading Rate to Mound Absorption Bed Bottom Surface in gallons per square foot per day
Sand; Coarse Sand; Loamy Coarse Sand; Fine Sand; Sandy Loam; Coarse Sandy Loam; Loamy Sand	<u>0.80</u> 1.00 0.80 0.65	<u>0.60</u> 0.75 0.60 0.65 0.40
Fine Sandy Loam; Very Fine Sand; Loamy Fine Sand; Loamy Very Fine Sand	0.35	0.25

(e) through (i) No change.

(4) through (10) No change.

Rulemaking Specific Authority 381.0065(3)(a) FS. Law Implemented 381.0065 FS. History--New 12-22-82, Amended 2-5-85, Formerly 10D-6.49, Amended 3-17-92, 1-3-95, Formerly 10D-6.049, Amended 11-19-97, 2-3-98, 3-22-00, 4-21-02, 06-18-03, 11-26-06,_____.

DEPARTMENT OF HEALTH

Division of Environmental Health

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64E-9.018	Public Pool Service Technician Certification

NOTICE OF CHANGE

Notice is hereby given that the following changes have been made to the proposed rule in accordance with Section 120.54(3)(d)1., F.S., published in Vol. 34, No. 43, October 24, 2008 issue of the Florida Administrative Weekly.

Changes are in accordance with comments received before and during the public hearing comment period, and from comments received from the Joint Administrative Procedures Committee.

CHAPTER 64E-9 PUBLIC SWIMMING POOLS AND BATHING PLACES

64E-9.001 General.

(1) through (3) No change.

(4) The Americans with Disabilities Act of 1990 may relate to public pools and should be reviewed by the design engineer and the pool owner. Chapter 11 and Section 424.1 of the Florida Building Code (2007, with 2009 amendments) also have application to public pools.

Rulemaking Specific Authority 381.006, ~~381.0011~~, 514.021 FS. Law Implemented 381.006, ~~381.0011~~, ~~381.0025~~, ~~386.01~~, ~~386.02~~, ~~386.03~~, ~~386.041~~, ~~386.051~~, ~~514.011~~, 514.021, 514.03, 514.031, 514.05, 514.06 FS. History–New 10-5-93, Formerly 10D-5.130, Amended 12-27-98, 5-27-04, _____.

64E-9.002 Definitions.

(1) through (6) No change.

(7) “Effective Barrier” – A barrier which consists of a building, or equivalent structure, plus a 48 inch minimum height fence on the remaining sides or a continuous 48 inch minimum height fence. All access through the barrier must have one or more of the following safety features: alarm, key lock or self-locking doors and gates. Safety covers that comply with the American Society for Testing Materials standard F1346-91 (2003) may also be considered as an effective barrier.

(8) through (19) No change.

(20) “Pool Turnover” – The circulation of the entire pool volume through the filter system. Pool volume shall be determined from the design water level which is the normal operating water level; for gutter type pools is the horizontal plane of the upper lip of the gutter and for skimmer pools is the centerline of the skimmer opening.

(21) through (27) No change.

(28) “Slip Resistant” – Having a textured surface which is not conducive to slipping under contact of bare feet unlike glazed tile or masonry terrazzo and non-textured plastic materials. Manufactured surface products shall be designated by the manufacturer as suitable for walking surfaces in wet areas. ~~Minimum acceptable static coefficient of friction to determine slip resistance is 0.6 on horizontal wet walking surfaces in the pool and for the wet deck area.~~

(29) through (42) No change.

Rulemaking Specific Authority ~~381.0011~~, 381.006, 514.021 FS. Law Implemented ~~381.0011~~, ~~381.0025~~, ~~381.006~~, ~~386.01~~, ~~381.02~~, ~~386.03~~, ~~386.041~~, ~~386.051~~, ~~514.011~~, 514.021, 514.03, 514.031, 514.05, 514.06, 514.071 FS. History–New 10-5-93, Formerly 10D-5.131, Amended 12-27-98, 5-27-04, _____.

64E-9.003 Forms.

(1) All forms listed in this chapter section are herein incorporated by reference and may be obtained from the department, at: <http://www.doh.state.fl.us/environment/water/swim/download.html>, or write to DOH, Bureau of Water Programs, mail bin C-22, 4052 Bald Cypress Way, Tallahassee 32399-1742, or at the local ~~c~~County ~~h~~Health ~~d~~Department. The following forms are for use by the department or the public:

(a) through (c) No change.

(2) No change.

Rulemaking Specific Authority 381.006, 514.021 FS. Law Implemented 381.006, 514.0115, 514.021, 514.025, 514.03, 514.031, 514.033 FS. History–New 10-5-93, Formerly 10D-5.132, Amended 12-27-98, 3-30-00, 5-27-04, _____.

64E-9.0035 Exemptions.

(1) No change.

(a) Applicants for a swimming pool exemption pursuant to (2)(a) or (2)(b) or (1), of Section 514.0115, F.S., shall submit the following information along with the applicable department form listed ~~above~~:

1. For condominiums; the recorded declaration of condominium; the condominium’s articles of incorporation; ~~and~~ bylaws, and all duly adopted and recorded amendments; supplements, and ~~all~~ recorded exhibits thereto; ~~and~~ a copy of a plot plan diagram for the proposed property; and form DH 4065 for 32 units or less, or DH 1704 for more than 32 units, or

2. For cooperatives; the articles of incorporation of the association; ~~the~~ bylaws, and the ground lease or other underlying lease, if any; the document evidencing a unit owner’s membership or share in the association; and the document recognizing a unit owner’s title or right of possession to his or her unit; ~~and~~ a copy of a plot plan diagram for the proposed property; and a completed form DH 4065 for 32 units or less, or DH 1704 for more than 32 units.

3. For exemption as a water therapy facility pool: along with a completed form DH4144; a written statement signed by a medical professional that they have already, or intend to prescribe medical water therapy for a patient in the pool, ~~and~~ ~~†~~This medical professional shall be a physician or a physician’s assistant (PA) licensed pursuant to Chapter 458 or 459, F.S., a podiatrist licensed pursuant to Chapter 461, F.S., or an advanced registered nurse practitioner (ARNP) licensed pursuant to Chapter 464, F.S. For subsequent biannual exemption renewals, in addition to the signed written statement from a medical professional as required above, each water therapy facility shall provide a list of the Florida licensed physical therapist(s), occupational therapist(s), and athletic trainer(s) providing therapy in the pool.

(b) No change.

(2) No change.

(3) An exemption from department rules does not exempt the pool from Florida Building Code (2007 with 2009 amendments) requirements, found in sections 11 and 424.1.

Rulemaking Specific Authority 381.006, 514.021 FS. Law Implemented 514.0115 FS. History–New _____.

64E-9.004 Operational Requirements.

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

(d) Chemical quality – Chemicals used in controlling the quality of the pool water shall be tested and approved using the National Sanitation Foundation (NSF-ANSI) Standard

60-2005, Drinking Water Treatment Chemicals-Health Effects dated September, 2005, which is incorporated by reference in these rules and shall be compatible with other accepted chemicals used in pools. The following parameters shall be adhered to for pool water treatment:

1. through 3. No change.

4. Cyanuric acid – 100 mg/L maximum in pools, with 40 mg/L as the recommended maximum, and 40 mg/L maximum in spa pools.

5. through 7. No change.

(e) Landscape irrigation water that wets the wet deck area of the pool, the pool itself, enters the collector tank, or wets an interactive water feature must be potable water from a public water system.

(2) through (3) No change.

(4) Food and beverages, drink and glass containers are prohibited in the pool and on the pool wet deck area; animals and glass containers are prohibited within the fenced pool area, or 50 feet from pool edge when no fence exists.

(5) through (12) No change.

(13) The keeping of a daily record of information regarding pool operation, using the Monthly Swimming Pool Report – DH 921 3/98, obtained from the local county health department, shall be the responsibility of the pool owner or operator. Customized report forms may be substituted provided they contain the appropriate information and are acceptable to the department. The completed report shall reflect manually conducted pool water tests for pH and disinfectant levels at least once every 24 hours, and weekly testing for cyanuric acid when chlorinated isocyanurates are used at spas and, monthly at pools, and shall be retained at the pool or submitted monthly as required by the local health department. DH 921, 3/98, may be obtained at the local county health department. For the purposes of daily testing of the pool water and keeping of the Monthly Swimming Pool Log, the requirements of Rule 64E-9.018, F.A.C., are not applicable.

(14) Should a human fecal accident occur, the pool operator or owner shall comply with all recommendations found in the Centers for Disease Control and Prevention's ~~Control's~~ (CDC) "Fecal accident response recommendations for Aquatics Staff" dated February 15, 2008, found on the department's internet web site: <http://www.floridashealth.org/Environment/water/swim/index.html>, <http://www.cdc.gov/healthyswimming/fecalacc.htm>. Alternative emergency disinfection methods developed by industry, or by the application of new disinfection technology, or by the use of chemical disinfectants that are effective, safe and appropriate for public bathing facilities, and are approved by the CDC, may also be used.

(15) For pools used at night or when adequate natural lighting is not available, the lighting requirements of paragraph 64E-9.006(2)(c), F.A.C., shall be met.

Rulemaking Specific Authority ~~381.0011, 381.006, 514.021 FS. Law Implemented Part I, Ch. 386, 381.0011, 381.0025, 381.006, 514.021, 514.03, 514.031, 514.05, 514.06 FS. History—New 10-5-93, Formerly 10D-5.133, Amended 12-27-98, 5-27-04,_____.~~

64E-9.005 Construction Plan or Modification Plan Approval.

No change.

(1) through (7)(a) No change.

(b)1. through 3. No change.

4. The unit shall meet the requirements of the NSF/ANSI standard 50-2007.

(c) through (d) No change.

Rulemaking Specific Authority ~~381.0011, 381.006, 514.021 FS. Law Implemented 381.0011, 381.0025, 381.006, 386.01, 386.02, 386.03, 386.041, 386.051, 514.021, 514.025, 514.03, 514.031, 514.05, 514.06 FS. History—New 10-5-93, Formerly 10D-5.134, Amended 12-27-98, 5-27-04,_____.~~

64E-9.006 Construction Plan Approval Standards.

(1) Pool Structure – Pools shall be constructed of concrete or other impervious and structurally rigid material. All pools shall be watertight, free from structural cracks and shall have a nontoxic smooth and slip resistant finish. All materials shall be installed in accordance with manufacturer's specifications unless such specifications standards violate Chapter 64E-9, F.A.C., rule requirements or the approval criteria of NSF/ANSI Standard 50-2007 or NSF/ANSI Standard 60-2005 approval.

(a) Floors and walls shall be white or light pastel in color and shall have the characteristic of reflecting rather than absorbing light. A minimum 4 inch tile line, each tile a minimum size of one four square inches on all sides, shall be installed at the water line, but shall not exceed 12 inches in height if a dark color is used. Gutter type pools may substitute 2-inch tile, each a minimum size of one inch on all sides ~~four square inches,~~ along the pool wall edge of the gutter lip.

1. through 2. No change.

3. One inch square tile may be used ~~throughout the remainder of the pool~~ if the licensed contractor provides a signed written certification to the approving department engineer that the adhesive used on the one inch square tile has a manufacturer's tested shear ~~sheer~~ strength of at least 250 psi and the manufacturer has specified the adhesive for use underwater to adhere the type of tile used (vitreous (glass) or ceramic). Tiles shall not have sharp edges exposed that could cause bather injury.

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

2. Underwater seat benches may be installed in areas less than five feet deep. Bench seats must be 14 to 18 inches wide and must have a dark contrasting tile marking on the seat edge extending two inches on the horizontal and vertical surface. Tile shall ~~must~~ be slip resistant. Bullnose tile may be substituted and installed in accordance with subparagraph 64E-9.006(1)(d)3., F.A.C. Vinyl liner, stainless steel, and

fiberglass pools may use other material for the bench edge marking as detailed in sub-subparagraph 64E-9.006(1)(c)3.e., F.A.C., above, provided the material is permanently secured, dark in color, non-fading, and slip resistant. Benches shall not protrude into the 15 foot clearance requirement of subparagraph 64E-9.006(1)(c)1., F.A.C.

(f) through (g) No change.

(2) Pool Appurtenances.

(a) Decks and Walkways – Wooden decks and walkways are prohibited.

1. Pool wet decks shall have a minimum unobstructed width of four feet around the perimeter of the pool, pool curb, ladders, handrails, diving boards, diving towers, and slides, shall be constructed of concrete or other nonabsorbent material having a smooth slip resistant finish and shall be uniformly sloped at a minimum of two percent to a maximum of four percent away from the pool or to deck drains to prevent standing water. Textured deck finishes that provide pitting and crevices of more than three-sixteenths inch (3/16") deep that accumulate soil are prohibited. If settling or weathering occurs that would cause standing water, the original slopes shall be restored or corrective drains installed. When a curb is provided, the deck shall not be more than 10 inches below the top of the curb. Wet deck area finishes shall be designed for such use and shall be installed in accordance with the manufacturer's specifications. Traffic barriers shall be provided as needed so that parked vehicles do not extend over the deck area. Walkways shall be provided between the pool and the sanitary facilities, and shall be constructed of concrete or other nonabsorbent material having a smooth slip resistant finish for the first 15 feet of the walkway measured from the nearest pool water's edge. A hose bibb with a vacuum breaker shall be provided to allow the deck to be washed down with potable water.

2. through 3. No change.

(b) through (c)3. No change.

4. Overhead wiring – Overhead service wiring shall not pass within an area extending a distance of 10 feet horizontally away from the inside edge of the pool walls, diving structures, observation stands, towers, or platforms. Allowances for overhead conductor clearances to pools that meet the safety standards in the National Electrical Code ~~or Florida Building Code~~ may be used instead.

(d) Electrical Equipment and Wiring – Electrical equipment wiring and installation including the grounding of pool components shall conform with the National Fire Protection Association 70, National Electrical Code (NEC), 2008 Edition, effective August 15, 2007, and with applicable local codes. The NEC is incorporated by reference in these rules and is available from the National Fire Protection Association, Quincy Massachusetts. A signature shall be provided on form DH916 from the electrical contractor or the electrical inspector certifying compliance with the National

Electrical Code. Where emergency cut-off switches are provided on existing or new pools, the alarm and signage specified in subsection 64E-9.010(16), F.A.C., for spa pools shall be provided within 180 days of effective date of this rule.

(e) Equipment Enclosures, Area or Rooms – Equipment designated by the manufacturer for outdoor use may be located in an equipment area, all other equipment must be located in an equipment room or enclosure. Plastic pipe subject to a period of prolonged sunlight exposure must be coated to protect it from ultraviolet light degradation. An equipment area shall be surrounded with a fence at least four feet high on all sides not confined by a building or equivalent structure. A self-closing and self-latching gate with a locking device shall be provided if necessary for access. An equipment room shall be protected on at least three sides and overhead. The fourth side may be a gate, fence, or open if otherwise protected from unauthorized entrance. Any fence or gate installed shall use members spacing that shall not allow passage of a 4 inch diameter sphere. An equipment enclosure shall be lockable or otherwise protected from unauthorized access. This access security shall be installed on all pool equipment areas by one year from the effective date of this rule for those that do not presently have a similar level of security. The equipment enclosure, area or room floor shall be of concrete or other nonabsorbent material having a smooth slip resistant finish and shall have positive drainage, including a sump pump if necessary. Ancillary equipment, such as a heater, not contained in an equipment enclosure or room shall necessitate an equipment area as described above, which shall also be installed by one year from the effective date of this rule.

1. Ventilation and Access – Equipment enclosures or rooms shall have either forced draft or cross ventilation. All below grade equipment rooms shall have a stairway access with forced draft ventilation or a fully louvered door and powered intake within 6 inches of the floor ~~louvered vent on at least one other side~~. Where stairway access is not necessary to carry heavy items into the below grade room or vault, a "ship's ladder" may be used if specified approved by the design department engineer who must consider anticipated workload including equipment removal, and the ladder slope, tread height and width, and construction material of the ladder. The opening to the equipment room or area shall be a minimum of three feet by six feet and shall provide easy access to the equipment. A hose bibb with vacuum breaker shall be located in the equipment room or area.

2. No change.

(f) Sanitary Facilities – Swimming pools with a bathing load of 20 persons or less may utilize a unisex restroom. Pools with bathing loads of ~~40~~ 90 persons or less may utilize two unisex restrooms or meet the requirement on the chart below. Unisex restrooms shall meet all the requirements for materials, drainage and signage as indicated in subparagraphs 64E-9.006(2)(f)2. through 7., F.A.C., below. Each shall include

a water closet, a diaper change table, a urinal, and a lavatory; ~~a urinal is optional~~. Pools with a bathing load larger than ~~40~~ 90 persons shall provide separate sanitary facilities labeled for each sex. The entry doors of all ~~such~~ restrooms must be located within a 200 foot walking distance of the nearest water's edge of each pool served by the facilities.

1. through 2. No change.

3. Sanitary facility floors shall be constructed of concrete or other nonabsorbent materials and shall have a smooth slip resistant finish and shall slope to floor drains. Carpets, duckboards and footbaths are prohibited. The intersection between the floor and walls must be coved where either floor or wall is not made of waterproof materials such as tile or vinyl ~~or the intersection is not sealed waterproof~~.

4. through 7. No change.

(g) No change.

(h) All public pools shall be surrounded by a minimum 48 inch high fence or other substantial barrier approved by the department. The fence shall be continuous around the perimeter of the pool area that is not otherwise blocked or obstructed by adjacent buildings or structures and shall adjoin with itself or abut to the adjacent members. Access through the barrier or fence from dwelling units such as homes, apartments, motel rooms, and hotel rooms, shall be through self-closing self-latching lockable gates of 48 inch minimal height from the floor or ground with the latch located a minimum of 54 inches from the bottom of the gate or at least 3 inches below the top of the gate on the pool side. If the self-closing self-latching gate is also self-locking and is operated by a key lock, electronic opener, or integral combination lock, then the operable parts of such locks or openers shall be 34 inches minimum and 48 inches maximum above the finished floor or ground. Doored access points from public rooms such as lobbies or club houses need not be through gates. Gates shall open outward away from the pool area. A latched, lockable gate shall be placed in the fence within ten feet of the closest point between the pool and the equipment area for service access. Instead of a fence, permanent natural or man-made features such as bulkheads, canals, lakes, navigable waterways, etc., adjacent to a pool may be permitted as a barrier when approved by the department. When evaluating such barrier features, the department may perform onsite inspections, and review evidence, such as surveys, aerial photographs, water management agency standards and specifications, and any other similar documentation to verify at minimum, the following: the barrier feature is not subject to natural changes, deviations, or alterations and is capable of providing an equivalent level of protection as that provided by a structure, and the barrier feature clearly impedes, prohibits or restricts access to the pool.

Screened pool enclosures must be hardened on the bottom three feet. Fencing consideration shall be given to the U.S. Consumer Product Safety Commission (CPSC) Publication No. 362, March 2005, guidelines available from CPSC.gov, or the Florida Building Code, 2007 with 2009 amendments, sections 424.2.17.1.1 – 424.2.17.1.8 ~~R4101.17.1.1 R4101.17.1.8~~. Safety Covers that comply with ASTM Standard F1346-91 (Reapproved 2003), titled Safety Covers and Labeling Requirements for All Covers for Swimming Pools, Spas and Hot Tubs, and available from ASTM.org, do not satisfy this requirement.

Rulemaking Specific Authority ~~381.0011, 381.006, 514.021 FS. Law Implemented 381.0011, 381.0025, 381.006, 386.01, 386.02, 386.03, 386.041, 386.051, 514.021, 514.03, 514.031, 514.05, 514.06 FS. History—New 10-5-93, Formerly 10D-5.135, Amended 12-27-98, 5-27-04, _____.~~

64E-9.007 Recirculation and Treatment System Requirements

(1) through (3) No change.

(a) Perimeter overflow gutters – The lip of the gutter shall be uniformly level with a maximum tolerance of one-fourth inch between the high and low areas. The bottom of the gutter shall be level or slope to the drains. The spacing between drains shall not exceed 10 feet for two inch drains or 15 feet for two and one-half inch drains, unless hydraulically justified by the design engineer. Gutters may be eliminated along pool edges for no more than fifteen feet and this shall not exceed 10% of the perimeter (at least 90% of the perimeter shall be guttered). In areas where gutters are eliminated, handholds shall be provided within nine inches of the water surface. Handhold design shall be approved by the department prior to construction. The gutter lip shall be tiled with a minimum of 2 inch tile on the pool wall, each a minimum size of one inch on all sides ~~four square inches~~, except that stainless steel gutters are exempt from this requirement.

1. Either recessed type or open type gutters shall be used. Special designs can be approved provided they are within limits of sound engineering practice. Recessed type gutters shall be at least four inches deep and four inches wide, and no part of the recessed gutter shall be visible from a position directly above the gutter sighting vertically down the edge of the deck or curb. Open type gutters shall be at least six inches deep and 12 inches wide. The back vertical wall of the gutter shall be tiled with glazed tile, each a minimum size of one inch on all sides ~~four square inches~~. This tile shall be smooth and easily cleanable. The gutter shall slope downward 2 inches, plus or minus 1/4 inch, from the lip to the drains. When open type gutters are located at pool steps and the gutter is used as a step tread, the gutter slope may be reduced to 1 inch in the area of the steps, and this tread shall be tiled with slip resistant tile. The back of the gutter drains shall be located within 3/4 inch of

the back vertical wall of the gutter, where the gutter is deepest and shall be flush with the surrounding area or be recessed no more than 3/8 inch.

2. through 3. No change.

(b)1. through 2. No change.

3. Recessed automatic surface skimmers ~~may shall~~ be installed with an equalizer valve and an equalizer line when the skimmer piping system is connected directly to pump suction. ~~If installed, the~~ equalizer valve shall be a spring loaded vertical check valve which will not allow direct suction on the equalizer line. Float valves are prohibited. The equalizer line inlet shall be installed at least one foot ~~below~~ below the normal pool water level and the equalizer line inlet shall be protected by an ASME/ANSI A112.19.8-2007 compliant cover/grate. The equalizer line shall be sized to handle the expected flow with a two inch minimum line size. For existing pools, within 180 days of effective date of this rule, skimmer equalizer lines shall be permanently plugged or ASME/ANSI A112.19.8-2007 compliant covers/grates shall be installed at the inlet.

4. No change.

5. A minimum 6-inch water line tile shall be provided on all pools with automatic skimmer systems, each a minimum size of one inch on all sides ~~four square inches~~. Glazed tile that is smooth and easily cleanable shall be utilized.

(4) through (9) No change.

(10) (a) through (e) No change.

(f) All pools built without a main drain collector tank must be retrofitted with a properly sized and piped collector tank as described in the collector tank definition, the first paragraph of Rule 64E-9.005, subsections 64E-9.007(8) and 64E-9.007(10), F.A.C., on or before the following dates to eliminate direct suction through the main drain.

1. No change.

2. All existing public pools with direct suction main drains shall install as soon as possible, but in no case later than ~~180~~ 420 days after the effective date of this rule, a main drain cover/grate that meets both the ASME/ANSI A112.19.8-2007 standard for drain covers/grates and the main drain cover/grate 1.5 feet per second water velocity requirement of this rule.

3. through 4. No change.

(g) No change.

(11) through (15) No change.

(16)(a) through (e) No change.

(f) Ultraviolet (UV) light disinfectant equipment may be used as supplemental water treatment on public pools (and ~~additional alternative~~ treatment on IWFs) subject to the conditions of this paragraph and manufacturer's specifications. UV is encouraged to be used to eliminate or reduce chlorine resistant pathogens, especially the protozoan *Cryptosporidium*.

1. UV equipment and electrical components and wiring shall comply with the requirements of the National Electrical Code and the manufacturer shall provide a certification of conformance to the department.

2. UV equipment shall meet UL standards and shall be electrically interlocked with recirculation pump(s) on all pools and with feature pump(s) on an IWF such that when the UV equipment fails to produce the required dosage as measured by an automated sensor, the feature pump(s) are disabled so the water features do not operate.

3. UV equipment shall be validated by a capable party that it delivers the required and predicted UV dose at the validated flow, lamp power and water UV transmittance conditions, and has complied with all professional practices summarized in the USEPA Ultraviolet Disinfectant Guidance Manual dated November, 2006, which is publication number EPA 815-R-06-007 available from the department at <http://www.floridashealth.org/Environment/water/swim/index.html> or at http://www.epa.gov/safewater/disinfection/lt2/pdfs/guide_lt2_uvguidance.pdf.

4. UV equipment shall constantly produce a validated dosage of at least 40 mJ/cm² (milliJoules per square centimeter) at the end of lamp life.

5. The UV equipment shall not be located in a side stream flow and shall be located to treat all water returning to the pool or water features.

(17) No change.

Rulemaking Specific Authority 381.0011, 381.006, 514.021 FS. Law Implemented 381.0011, 381.0025, 381.006, 386.01, 386.02, 386.03, 386.041, 386.051, 514.021, 514.03, 514.031, 514.05, 514.06 FS. History—New 10-5-93, Formerly 10D-5.136, Amended 12-27-98, 5-27-04.

64E-9.008 Supervision and Safety.

(1) through (1)(a) No change.

(b) Lifeguards and swimming instructors shall also be currently certified in first aid and in adult, child and infant cardiopulmonary resuscitation through the American Red Cross, or the American Heart Association, or the National Safety Council, or the American Academy of Orthopaedic Surgeons, or by Medic First Aid International, Inc., or by American Safety and Health Institute.

(c) through (e) No change.

(2) through (6) No change.

(7) No change

1. No food or beverages, drink, glass or animals in pool or on pool wet deck.

2. No glass or animals in the fenced pool area (or 50 feet from unfenced pool).

3. Bathing load: __ persons.

4.3. Pool hours: __ a.m. to __ p.m.

~~5.4.~~ Shower before entering. Pools of 200 square feet in area or greater without an approved diving well configuration shall have "NO DIVING", in four inch letters included with the above listed pool rules.

~~6.5.~~ For new or modified pools submitted for plan approval application on or after the effective date of this rule, their posted sign shall add: Do not swallow the pool water.

(8) through (9) No change.

(10) Floating and climb-on devices, objects or toys that are not a part of the approved pool design shall not be tethered in the pool or installed without engineering modification application and department approval.

Rulemaking Specific Authority ~~381.0011~~, 381.006, 514.021 FS. Law Implemented ~~381.0011~~, 381.0015, ~~381.0025~~, 381.006, ~~386.01~~, ~~386.02~~, ~~386.03~~ ~~386.041~~, ~~386.051~~, 514.021, 514.03, 514.031, 514.05, 514.06, 514.071 FS. History—New 10-5-93, Formerly 10D-5.137, Amended 12-27-98, 5-27-04,_____.

64E-9.009 Wading Pools.

(1) through (10) No change.

Rulemaking Specific Authority ~~381.0011~~, 381.006, 514.021 FS. Law Implemented ~~381.0011~~, ~~381.0025~~, 381.006, ~~386.01~~, ~~386.02~~, ~~386.03~~, ~~386.041~~, ~~386.051~~, 514.021 FS. History—New 10-5-93, Formerly 10D-5.138, Amended 12-27-98, 5-27-04,_____.

64E-9.010 Spa Pools.

(1) through (15) No change.

(16) If a spa is equipped with an emergency cut-off or kill switch, provisions for a minimum 80 decibel audible alarm near the spa to sound continuously until deactivated when such device is triggered shall be incorporated. This is to alert pool patrons and operators of a potential public health situation or to indicate that the spa filtration and treatment system may be off. The following additional rule sign shall be visible by the spa which reads "ALARM INDICATES SPA PUMPS OFF. DO NOT USE SPA WHEN ALARM SOUNDS UNTIL ADVISED OTHERWISE." Where emergency cut-off switches are provided on existing or new spa pools, the alarm and signage specified in subsection 64E-9.010(16), F.A.C., above shall be provided within 180 days of effective date of this rule.

(17) No change.

Rulemaking Specific Authority ~~381.0011~~, 381.006, 514.021 FS. Law Implemented ~~381.0011~~, ~~381.0015~~, ~~381.0025~~, 381.006, 386.01, 386.02, 386.03, 386.041, 386.051, 514.011, 514.021, 514.03, 514.031, 514.05, 514.06 FS. History—New 10-5-93, Formerly 10D-5.139, Amended 12-27-98, 5-27-04,_____.

64E-9.011 Water Recirculation Attraction and Specialized Pools.

(1) through (5) No change.

(6) Zero Depth Entry Pools.

(a) through (e) No change.

(f) The recirculation-filtration system shall be of a minimum of one turnover every two hours in the area of the pool that is three feet deep or less. In the remainder of the pool where the depth is greater than three feet, the system shall have a maximum six hour turnover rate. The design plans submitted by the applicant shall provide the volume of water in the pool area of three feet depth and less, the volume of water in the pool area greater than three feet in depth, and the total volume in the pool for determination of minimum circulation flow. The volume calculations shall provide verification that the correct volume of water is used to determine the minimum flow at the two hour and the six hour flow requirements.

(g) through (h) No change.

(7) No change.

(8)(a) through (e) No change.

(f) Hydraulics.

1. No change.

2. Alternatively, the contained volume of the system may be filtered and chemically treated based upon a 30 minute turnover of the contained volume with 100% returned to the collector tank by manifold piping. If this alternative is chosen, all water returned to the spray feature(s) must also be treated with an Ultraviolet (UV) light disinfection equipment to accomplish protozoan destruction in accordance with sound engineering and the requirements at paragraph 64E-9.007(16)(f), F.A.C. This alternative must have the ability to feed 6 mg/L free chlorine to the feature water as it is returned to the spray feature. The UV disinfection equipment shall be electrically interconnected such that whenever it fails to produce the required UV dosage, the water spray features pump(s) and flow will be immediately stopped.

3. through 7. No change.

(g) through (h) No change.

~~(i) Play features with an overhead clearance of less than two feet shall be blocked or barricaded to preclude children becoming entrapped.~~

~~(j)(i)~~ IWFs shall be constructed of concrete or other impervious and structurally rigid material.

~~(j)(k)~~ In addition to the requirements of subsection 64E-9.008(7), F.A.C., all IWF pool rule signs shall have the following added in one inch letters within one year of the effective date of this rule.

Do not swallow the fountain water, it is recirculated.

Do not use fountain if you are ill with diarrhea.

~~(k)(i)~~ Floor slopes of an IWF shall be a maximum one foot vertical in ten feet horizontal and a minimum of one foot vertical in fifty feet horizontal.

(9) No change.

Rulemaking Specific Authority ~~381.0011~~, 381.006, 514.021 FS. Law Implemented ~~381.0011~~, ~~381.0025~~, 381.006, ~~386.01~~, ~~386.02~~, ~~386.03~~, ~~386.041~~, ~~386.051~~, 514.021, 514.03, 514.031, 514.05, 514.06 FS. History—New 10-5-93, Formerly 10D-5.140, Amended 12-27-98, 5-27-04,_____.

64E-9.013 Bathing Places.

(1) through (4) No change.

Rulemaking Specific Authority ~~381.0011~~, 381.006, 514.021 FS. Law Implemented ~~381.0011~~, ~~381.0025~~, 381.006, ~~386.01~~, ~~386.02~~, ~~386.03~~, ~~386.041~~, ~~386.051~~, 514.021, 514.03, 514.031, 514.04, 514.05, 514.06 FS. History—New 10-5-93, Formerly 10D-5.142, Amended 12-27-98, 5-27-04, _____.

64E-9.015 Fee Schedule.

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

(d) Annual renewal of operating permits, use form DH4063:

1. Pools greater than 25,000 gallons and bathing places – \$250.00 ~~\$250.00~~

2. through 4. No change.

(3) through (5) No change.

Rulemaking Specific Authority ~~381.0011~~, 381.006, 514.021, 514.033 FS. Law Implemented 514.021, 514.03, 514.031, 514.033 FS. History—New 10-5-93, Formerly 10D-5.144, Amended 12-27-98, 5-27-04, _____.

64E-9.016 ~~Exemptions and~~ Variances.

(1) through (2) No change.

Rulemaking Specific Authority ~~381.0011~~, 381.006, 514.0115, 514.021 FS. Law Implemented 514.0115, 514.021, 514.028, 514.051, 514.06 FS. History—New 10-5-93, Formerly 10D-5.145, Amended 12-27-98, _____.

64E-9.017 Enforcement.

No change.

(1)(a) through (d) No change.

(e) A main drain grate is missing, unsecured, improperly secured, ~~or~~ damaged, or does not meet the requirements of subparagraph 64E-9.007(10)(f)2., F.A.C., by the time allowed.

(f) No change.

(g) Direct suction exists on the main drain or other outlets, except vacuum fittings, automatic surface skimmer(s), and their equalizer grates provided the flow velocity through the grate does not exceed 1.5 feet per second, or the corrective actions specified in paragraphs 64E-9.007(3)(b) and (10)(f), F.A.C., are not completed by dates specified.

(h) Any other conditions which endangers the health, safety, or welfare of persons using the pool, which may include, but is not limited to: a drowning hazard, broken glass, sharp edged or broken tile or metal, fecal accident(s), electrical code violation, or severe biological growth. The division or department may attach a sign that states “Pool Closed. This pool is not in compliance with Chapter 64E-9, F.A.C., and may endanger the health, safety or welfare of persons using this facility”. With the department’s permission, the pool operator may remove signs from the pool area immediately following correction of the cited deficiencies provided the county health department is notified of this action.

(2) Correction of Unauthorized Modifications.

(a) When it is discovered that a pool has been modified from the department approved plans and application, corrective construction and replacement shall be allowed to occur to bring the pool into compliance with the plans and applications as approved without the requirement for a modification permit, unless any of the following exist:

1. Critical conditions identified in paragraphs 64E-9.017(1)(d) and (g), F.A.C., above are discovered.

2. The original approved plans and application are not available for verification.

3. The extent of the unauthorized modification cannot be readily determined by the department or the design engineer.

4. The corrective construction or replacement will place the pool in violation of current pool construction rules.

5. The construction requires concrete work or placement of underground pipes.

6. Other unsanitary or unsafe conditions apparent to the department or the design engineer.

(b) Whenever any of the conditions numbered 1 through 6 above exist, the owner shall make application to the department with form DH 914 pursuant to subsection 64E-9.005(1), F.A.C., for a modification permit to authorize any construction required to restore the condition of the pool to an approved or original condition.

Rulemaking Specific Authority ~~381.0011~~, 381.006, 514.021, 514.05 FS. Law Implemented ~~381.0025~~, 381.006, ~~386.01~~, ~~386.02~~, ~~386.03~~, ~~386.041~~, ~~386.051~~, 514.021, 514.04, 514.05, 514.06 FS. History—New 10-5-93, Formerly 10D-5.146, Amended 12-27-98, 5-27-04, _____.

64E-9.018 Public Pool Service Technician Certification.

No change.

(1) through (6) No change.

~~(7) Internet based classes—Where courses have been approved above, they may be approved to be delivered in an electronic means as follows:~~

~~(a) Provider shall provide documentation establishing that their proposed online course is identical or better in content to the existing classroom course.~~

~~(b) Provider course will provide training and materials that have already been approved by the department.~~

~~(c) Provider will provide at least sixteen (16) hours of class online, or a mixture of on line and traditional face to face classroom instructional setting for a total of sixteen (16) hours of training may be offered.~~

~~(d) The course and any changes to the course as approved, delivery method, or identification verification and validation procedure must be approved by the department prior to the change, except for changes to course content in accordance with the next section, below.~~

~~(e) The course training materials shall be kept current with the science and the technology of the public pool industry, and the State of Florida rules related to public swimming pools.~~

(f) Each online course section must have a minimum time to finish that section before it is possible to move on to the next section. The minimum time is 120 minutes for each one eighth (1/8th) of the online course.

Failure by a student to answer a validation question during a 60 second response time period, or a student providing more than one incorrect answer to a validation question, will cause the online course or test to automatically terminate. The student can register to take the course or test again after a 24 hour waiting period.

(g) Identification verification and validation is required for each student taking the course and test. This shall occur prior to the initiation of the online course, using an identity verifying technology that seeks verification using credit bureau contacts. Following initial identity verification, validation shall occur during the course, at least every five hours during the online training portion, and then again immediately before the student's entrance to the final test and again when half of the questions have been answered.

(h) If Provider or the department determines that a student has attempted or acquired certification by committing fraud, deceit, false statements, or perjury, provider shall notify the department in writing within 30 days of such determination, and shall revoke the certificate.

(i) At a minimum, provider shall include on the registration form, initial blocks in which the student signs off on the following information:

1. That the student who registers for the course is the person taking the course.

That the student must take a test of at least 50 questions on course content and get 70 percent correct to receive a course completion certificate. Failure to answer correctly 70 percent content questions will result in a test failure and the student must wait at least 24 hours to retake the test.

2. That the student will be asked time limited validation questions during the course and test. The validation questions will ask the student questions about themselves based on information provided by them and obtained through credit bureaus. Failure by a student to answer a validation question during a 60 second response time period, or a student providing more than one incorrect answer to a validation question, will cause the course or test to automatically terminate. Upon termination, a 24 hour waiting period is required before the student is allowed to register again.

3. Failure of student to sign off to each stipulation listed above will result in the student's inability to proceed with the course.

(j) Provider will provide an electronic or paper report of students taking the course and those passing the final test every three months (first of January, April, July and October) to the Department of Health, the Bureau of Water Programs, Mail bin C-22, Tallahassee, Florida, 32399-1742. Included in the report

will be the student's name, address, business affiliation and date of certificate issuance. This information will be handled by the department as required by statute and rule.

(k) Provider must maintain electronic records of the information in the above section for at least 10 years after the certificate is issued.

(l) A subject matter expert representing Provider must be available by telephone or via electronic means during normal business hours to assist students.

(7)(m) Any reference to department approval shall state no more than: "This course is approved by the Florida Department of Health for student certification as a Public Pool Service Technician under Chapters 514, F.S., and Chapter 64E-9, F.A.C."

(n) In order to ensure that the requirements of this section are met, the department retains the right, two (2) or three (3) times a year, to sign on and take the providers course, as any interested student would. In order to allow such inspection, provider shall reimburse the department the cost of the course. The department, when making a request for the reimbursement, shall provide the provider with the time and date the course was taken, and the number of the credit card used to pay for the course.

(o) This internet-based online course approval is not transferable and only applies to this internet course and to the provider it was issued to.

Rulemaking Specific Authority 381.006, 381.004, 514.021, 514.075 FS. Law Implemented 514.025, 514.075 FS. History--New 9-25-97, Amended 5-27-04, _____.

FLORIDA HOUSING FINANCE CORPORATION

RULE NOS.:	RULE TITLES:
67ER09-1	Purpose and Intent
67ER09-2	Definitions
67ER09-3	Implementation
67ER09-4	Community Workforce Housing Innovation Pilot Program
67ER09-5	State Apartment Incentive Loan Program

NOTICE OF CORRECTION

Notice is hereby given that the following correction has been made to the emergency rules published in Vol. 35, No. 12, March 27, 2009 issue of the Florida Administrative Weekly. The effective date of the above emergency rules is March 13, 2009.