

SUBJECT AREA TO BE ADDRESSED: This rule implements and specifies the educational requirements approved by the Board for licensure as a funeral director under Sections 497.373 and 497.374, F.S.

RULEMAKING AUTHORITY: 497.103(5)(a), 497.103(1)(a), 497.141(12)(g), 497.141(4), 497.373(1)(d) FS.

LAW IMPLEMENTED: 497.373, 497.374 FS.

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

DATE AND TIME: June 8, 2011, 10:00 a.m.

PLACE: Room 332, Pepper Building, 111 W. Madison Street, Tallahassee, Florida

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 48 days before the workshop/meeting by contacting: LaTonya Bryant-parker, (850)413-4957 or LaTonya.Bryant-Parker@myfloridaCFO.com. If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT, IF AVAILABLE, IS: Douglas Shropshire, Executive Director, Board of Funeral, Cemetery, and Consumer Services, Division of Funeral, Cemetery, and Consumer Services, Department of Financial Services, 200 East Gaines Street, Tallahassee, FL 32399-0361, (850)413-4984, shropshired@MyFloridaCFO.com. Direct any request for rule development workshop to Mr. Shropshire

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

Section II Proposed Rules

DEPARTMENT OF EDUCATION

State Board of Education

RULE NOS.:	RULE TITLES:
6A-6.0902	Requirements for Identification, Eligibility, and Programmatic Assessments of English Language Learners
6A-6.09021	Annual English Language Proficiency Assessment for English Language Learners
6A-6.09022	Extension of Services in English for Speakers of Other Languages (ESOL) Program

6A-6.0903 Requirement for Classification, Reclassification, and Post Reclassification of English Language Learners

6A-6.09031 Post Reclassification of English Language Learners

PURPOSE AND EFFECT: The purpose of the rulemaking is to update and provide greater clarity by disaggregating Rules 6A-6.0902 and 6A-6.0903, F.A.C., into five separate rules regarding the requirements of: identification and placement of an English Language Learner (ELL), exit criteria of an ELL, the provisions of the annual English language proficiency assessment, requirements of extension of services, and post reclassification of an ELL. In addition, initial assessment of English language proficiency in Reading and Writing is shortened to ensure that students are placed in appropriate classes as soon as possible. The role of parental preference in identifying, assessing, and exiting ELLs is clarified, and the right of parents to have a student removed from a language instruction education program is expressly specified. The procedure for extension of English for Speakers of Other Languages (ESOL) services beyond three years is clarified to ensure that timely data is considered and that the basis for extension or exit is documented. The standards for exiting an ELL from the ESOL program are modified to provide uniform and accurate measures of English language proficiency, in accordance with state and federal law.

SUMMARY: Revisions to existing Rule 6A-6.0902, F.A.C., include the following: Revisions relating to identification of ELLs are revised to clarify that the home language survey is to be completed during registration, rather than upon enrollment; the time period for completing an initial assessment of English language proficiency in Reading and Writing is shortened, and related processes contained in the rule are revised accordingly; the authority of the district to assess kindergarten students' English language proficiency during kindergarten roundup is specified; the right of parents to have a student removed from a language instruction education program is clarified; one factor for consideration by an ELL Committee in its determination of whether a student is English language proficient is removed as extraneous; documentation requirements for ELL Committees are specified; provisions relating to the annual assessment of English language proficiency are moved to newly created Rule 6A-6.09021, F.A.C., and the requirements relating to assessing former ELLs are clarified; and provisions relating to extension of ESOL services are moved to newly created Rule 6A-6.09022, F.A.C., and the timing and requirements for extension of services beyond three years are clarified.

Revisions to existing Rule 6A-6.0903, F.A.C., include the following: the standards for exit from the ESOL program are modified; and provisions relating to post-reclassification of ELLs are moved to a newly created Rule 6A-6.09031, F.A.C.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: The Agency has determined that this will not have an adverse impact on small business or likely increase directly or indirectly regulatory costs in excess of \$200,000 in the aggregate within one year after the implementation of the rule. A SERC has not been prepared by the agency.

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

RULEMAKING AUTHORITY: 1001.02, 1003.56 FS.

LAW IMPLEMENTED: 1003.56, 1011.62 FS.

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

DATE AND TIME: June 21, 2011, 8:30 a.m.

PLACE: Orlando, Florida (Please contact Lynn Abbott, Department of Education, (850)245-9661 or lynn.abbott@fldoe.org for the exact location.)

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Lori Rodriguez, Bureau of Student Achievement through Language Acquisition, 325 West Gaines Street, Suite 444, Tallahassee, FL 32399, (850)245-0417

THE FULL TEXT OF THE PROPOSED RULES IS:

6A-6.0902 Requirements for Identification, Eligibility, and Programmatic ~~and Annual~~ Assessments of English Language Learners.

(1) Requirements for identification. Each student shall be surveyed upon initial registration in a Florida public school enrollment unless he or she has been surveyed previously with the questions provided in this rule. The survey shall contain the following questions:

(a) Is a language other than English used in the home?

(b) Did the student have a first language other than English?

(c) Does the student most frequently speak a language other than English?

The questions may appear on a school's registration form or a separate survey form. The home language and the national origin of each student shall also be collected and retained in the district's data system. Affirmative responses to question (b) or (c), or both requires that the student be placed in the English for Speakers of Other Languages (ESOL) program until completion of the eligibility assessment. A student for whom the only affirmative response to the survey is question (a) does not need to be placed in the ESOL program pending assessment. ~~These students not placed in the ESOL program shall be given the aural and oral or listening and speaking assessment and if in grades 3 through 12, the reading and writing assessment shall be completed within the timelines described below.~~

(2) Assessment to determine eligibility for appropriate services and funding.

(a) Each student who responded "yes" to any question on the home language survey shall be assessed to determine if the student is limited English proficient based on one of the standards set forth in this subsection. Any student identified by the home language survey who also meets one of the standards in subparagraphs (2)(a)1., 2. and 3. of this rule shall be classified as an English Language Learner (ELL) and shall receive appropriate instruction and funding as specified in Sections 1003.56 and 1011.62, F.S.

1. Any student in grades K through 12 who scores within the limited English proficient range as determined by the publisher's standards on a Department of Education approved aural and oral language proficiency test or scores below the English proficient level on a Department of Education approved assessment in listening and speaking, shall be classified as an English Language Learner and shall be provided appropriate services. Assessment of each student's aural and oral proficiency or listening and speaking should be completed as soon as possible after the student's initial enrollment but not later than twenty (20) school days after the student's enrollment unless documented in the following manner:

a. The documentation shall include the reason for the delay, evidence that the student is accorded the programming required for ELLs pending the delay, and a specific timetable for completing the assessment.

b. This documentation shall be mailed to the parents in the language they understand, unless clearly not feasible no later than eight (8) weeks after initial enrollment.

c. A copy shall be retained in the student's files for a minimum of one (1) year.

Prospective kindergarten students may be assessed prior to enrollment during a kindergarten roundup evaluation so long as the assessment is given no earlier than May 1 of the calendar year the student will enroll.

2. Any student in grade 3 or above, who scores at or below 32nd percentile on reading comprehension and writing or language usage subtests of a nationally norm referenced test or scores below the English proficient level on a Department of Education approved assessment in reading and writing shall be classified as an English Language Learner and provided appropriate services. The assessment in reading and writing shall be completed as soon as possible after enrollment, but not later than twenty (20) school days after the aural and oral assessment or listening and speaking assessment within one (1) year after the student's enrollment.

~~3. Any student in grades 3 through 12 who scores English proficient on the aural and oral assessment but whose reading and writing assessment has not been completed within twenty (20) school days shall be referred to an ELL Committee for a placement determination. The ELL Committee shall be~~

convened within twenty (20) school days after the aural and oral assessment or listening and speaking assessment, and shall use the procedures described below to determine whether the student should be placed in the ESOL program pending the reading and writing assessment. The ELL Committee must make a written determination, signed by a majority of the members that in their opinion the student's reading and writing skills exceed the skills equivalent to the 32nd percentile on both the reading and writing subparts of a nationally norm referenced test. No ELL Committee meeting is required if the student is enrolled in the ESOL program pending the reading and writing assessment.

3.4. Upon request of a parent or teacher, a Any student who is determined not to be an English Language Learner as described in subparagraph (2)(a)1. or 2. of this rule or any student determined to be an English Language Learner based solely on one reading or writing assessment as described in subparagraph (2)(a)2. of this rule may be referred to an ELL Committee to determine eligibility for appropriate services based upon a parent's or a teacher's request. The parents' preference as to whether a student is determined to be an ELL or not to be an ELL shall be considered in the final decision. The ELL Committee may determine a student to be an English Language Learner or not to be an English Language Learner according to consideration of at least two (2) of the following criteria in addition to the test results from subparagraph (2)(a)1. or 2. of this rule:

a. Extent and nature of prior educational or academic experience, social experience, and a student interview;

~~b. Grade level mastery of basic competencies or skills in English in listening, speaking, reading and writing according to applicable local, state, or national criterion-referenced standards;~~

~~b.e.~~ Written recommendation and observation by current and previous instructional and supportive services staff;

~~c.d.~~ Level of mastery of basic competencies or skills in English and heritage language according to appropriate local, state or national criterion-referenced standards;

~~d.e.~~ Grades from the current or previous years; or

~~e.f.~~ Test results other than subparagraph (2)(a)1. or 2. of this rule.

(b) Any determinations by the ELL Committee shall be contained in a written evaluation with a narrative description of the basis for the decision, which shall be placed in the ELL Student Plan. Such evaluations shall further set forth a plan, which will be implemented, to address the student's English language needs. The basis and nature of the ELL Committee's recommendations shall be documented and maintained in the student's file.

~~(e) In lieu of the standards in subparagraphs (2)(a)1., 2. and 3. of this rule, a school district may use either a district assessment or the test form of the Comprehensive English Language Learner Assessment (CELLA) approved for use as placement test to assess a student's level of English proficiency. The alternative standards for assessing students for placement must be submitted as part of the District ELL Plan and approved by the Department of Education prior to implementation. In reviewing the district's submission of the assessment and procedure in lieu of subparagraphs (2)(a)1. and 2. of this rule, the Department shall make an affirmative determination that the instruments and standards proposed to be utilized by the school district are valid and reliable measures of a student's level of English language proficiency.~~

~~(d) For each student in grade 3 or above who scored within the English proficient range on the aural and oral language proficiency test scored at or above the English proficient level on a listening and speaking assessment in accordance with subparagraph (2)(a)1. of this rule, but was enrolled in the ESOL program under the provisions of subparagraph (2)(a)3. of this rule, the assessment of reading and writing proficiency shall be completed within one (1) year after the date of enrollment. For students transferring into the school district, assessments completed within one year prior to the date of the student's transfer may be used.~~

~~(e) Assessment of a student's English proficiency as specified in subparagraphs (2)(a)1. and 2. of this rule shall be completed as rapidly as possible. The student shall receive services until assessment is completed. In the interim, from enrollment to eight weeks, the student shall be eligible for ESOL funded services based on a school district interim assessment procedure which shall be described in the District ELL Plan approved by the Department of Education.~~

~~(c)(f)~~ An ELL Committee, after notification to the parent of the opportunity to participate in the meeting, shall conduct assessments referred to in subsections (2) and (3) of this rule and recommend an ELL Student Plan for such student.

~~(d)(g)~~ An eligible student shall be reported for ESOL funding as specified in Section 1011.62, F.S.

(3) Programmatic Assessment.

(a) Each student determined to be an ELL shall be further assessed in academic areas so as to aid the student's teacher in developing an appropriate instructional program.

(b) Each school district shall seek to document the prior schooling experience of ELLs by means of school records, transcripts and other evidence of educational experiences, and take such experiences into account in planning and providing appropriate instruction to such students. The school district shall award equal credit for courses taken in another country or

a language other than English as they would the same courses taken in the United States or taken in English. For foreign-born students, the same district adopted policies regarding age appropriate placement shall be followed as are followed for students born in the United States. Should a school district use a placement test for determining appropriate grade or course placement, such assessment may not be based in whole or in part on the student’s English language proficiency. Students classified as ELLs shall be placed in the appropriate English for Speakers of Other Language or Language Arts through ESOL course and core subject area courses based on their assigned grade level.

(c) Any teacher, administrator, parent or parent’s designee may request the convening of an ELL Committee to review the student’s progress in attaining necessary subject area competencies or in overcoming persistent deficiencies in overall student performance. The ELL Committee may be reconvened at any time after a student has been served for a semester. The ELL Committee shall make recommendations for appropriate modifications in the student’s programming to address problems identified and shall document such modifications in the student’s ELL Student Plan.

(d) Parents have the right to have their child immediately removed from a language instruction educational program and to decline to enroll the student in such a program or choose other instructional options, if available. For purposes of this subparagraph, a “language instruction educational program” means an instruction course in which an ELL is placed for the purpose of developing and attaining English proficiency and

which may make instructional use of both English and a child’s native language. Nothing herein shall alter the duty of the district to provide highly qualified, duly certified or endorsed ESOL instructors in accordance with Rule 6A-1.09441, F.A.C., and the Course Code Directory and Instructional Personnel Assignments that is incorporated by reference therein.

~~(4) Annual assessment to determine progress towards English language proficiency.~~

~~(a) All students classified as ELLs and former ELLs who were exited from the ESOL program based on another assessment and were not tested on CELLA in the prior year’s assessment shall be assessed annually on the CELLA.~~

~~(b) The CELLA shall be administered in accordance with standard written instructions appropriate for the examination. The written instructions will be issued by the Commissioner in the form of directions for administration and other written communications, and provided to school districts in sufficient time prior to each test.~~

~~(c) Provisions shall be made by school districts to administer the test to students who are absent on the designated testing dates according to directions specified by the Commissioner. The directions will be issued in the form of test administration manuals and other written communications, and provided to school districts in sufficient time prior to each test.~~

~~(d) Beginning with the effective date of this rule, the English language proficiency levels for Oral Skills, Reading, and Writing shall be as shown in the following tables:~~

Oral Skills (listening and speaking) grade cluster scale scores by English Language Proficiency Level

Grade	Beginning	Low-Intermediate	High-Intermediate	Proficient
Clusters				
K-2	495-632	633-649	650-672	673-755
3-5	560-675	676-697	698-719	720-805
6-8	565-680	681-712	713-732	733-830
9-12	580-681	682-713	714-738	739-835

Writing grade cluster scale scores by English Language Proficiency Level

Grade	Beginning	Low-Intermediate	High-Intermediate	Proficient
Clusters				
K-2	515-636	637-657	658-689	690-775
3-5	575-674	675-702	703-726	727-825
6-8	580-687	688-719	720-745	746-845
9-12	600-689	690-720	721-745	746-850

Reading grade cluster scale scores by English Language Proficiency Level

Grade	Beginning	Low-Intermediate	High-Intermediate	Proficient
Clusters				
K-2	345-545	546-628	629-689	690-800
3-5	590-689	690-714	715-733	734-810
6-8	600-713	714-741	742-758	759-815
9-12	605-743	744-761	762-777	778-820

(e) The Commissioner shall annually review the CELLA performance data, the CELLA cut scores and the CELLA English proficiency levels. After consulting with experts in the fields of second language acquisition and assessment, and other stakeholder groups, the Commissioner shall recommend to the State Board of Education whether to maintain the existing cut scores and proficiency levels or make changes as may be necessary to the scores, proficiency levels or other requirements of this rule.

Rulemaking Specific Authority 1001.02, 1003.56 FS. Law Implemented 1003.56, 1011.62 FS. History—New 10-30-90, Amended 5-19-08, _____.

6A-6.09021 Annual English Language Proficiency Assessment for English Language Learners (ELLs).

(1) All students classified as ELLs shall be assessed annually on the Comprehensive English Language Learning Assessment (CELLA). A former ELL shall be assessed on CELLA during the school year in which the student exits from the English for Speakers of Other Languages (ESOL) program.

(2) The CELLA shall be administered in accordance with standard written instructions appropriate for the examination. The written instructions will be issued by the Commissioner in the form of directions for administration and other written communications, and provided to school districts in sufficient time prior to each test.

(3) Provisions shall be made by school districts to administer the test to students who are absent on the designated testing dates according to directions specified by the Commissioner. The directions will be issued in the form of test administration manuals and other written communications, and provided to school districts in sufficient time prior to each test.

(4) Beginning with the effective date of this rule, the English language proficiency levels for Oral Skills, Writing, and Reading shall be as shown below:

Oral Skills (listening and speaking) grade cluster scale scores by English Language Proficiency Level:

Grade	Beginning	Low Intermediate	High Intermediate	Proficient
<u>Clusters</u>				
<u>K-2</u>	<u>495-632</u>	<u>633-649</u>	<u>650-672</u>	<u>673-755</u>
<u>3-5</u>	<u>560-675</u>	<u>676-697</u>	<u>698-719</u>	<u>720-805</u>
<u>6-8</u>	<u>565-680</u>	<u>681-712</u>	<u>713-732</u>	<u>733-830</u>
<u>9-12</u>	<u>580-681</u>	<u>682-713</u>	<u>714-738</u>	<u>739-835</u>

Writing grade cluster scale scores by English Language Proficiency Level:

Grade	Beginning	Low Intermediate	High Intermediate	Proficient
<u>Clusters</u>				
<u>K-2</u>	<u>515-636</u>	<u>637-657</u>	<u>658-689</u>	<u>690-775</u>
<u>3-5</u>	<u>575-674</u>	<u>675-702</u>	<u>703-726</u>	<u>727-825</u>
<u>6-8</u>	<u>580-687</u>	<u>688-719</u>	<u>720-745</u>	<u>746-845</u>
<u>9-12</u>	<u>600-689</u>	<u>690-720</u>	<u>721-745</u>	<u>746-850</u>

Reading grade cluster scale scores by English Language Proficiency Level:

Grade	Beginning	Low Intermediate	High Intermediate	Proficient
<u>Clusters</u>				
<u>K-2</u>	<u>345-545</u>	<u>546-628</u>	<u>629-689</u>	<u>690-800</u>
<u>3-5</u>	<u>590-689</u>	<u>690-714</u>	<u>715-733</u>	<u>734-810</u>
<u>6-8</u>	<u>600-713</u>	<u>714-741</u>	<u>742-758</u>	<u>759-815</u>
<u>9-12</u>	<u>605-743</u>	<u>744-761</u>	<u>762-777</u>	<u>778-820</u>

(5) The Commissioner shall annually review the CELLA performance data, the CELLA cut scores and the CELLA English proficiency levels. After consulting with experts in the fields of second language acquisition and assessment, and other stakeholder groups, the Commissioner shall recommend to the State Board of Education whether to maintain the existing cut scores and proficiency levels or make changes as may be necessary to the scores, proficiency levels or other requirements of this rule.

Rulemaking Authority 1001.02, 1003.56 FS. Law Implemented 1003.56 FS. History—New _____.

6A-6.09022 Extension of Services in English for Speakers of Other Languages (ESOL) Program.

(1) If a student is classified as an English Language Learner (ELL) after being enrolled in the English for Speakers of Other Languages (ESOL) program for three (3) years, an ELL Committee shall be convened annually to re-evaluate the student's progress towards English language proficiency. The

ELL Committee shall be convened no earlier than thirty (30) days prior to the third anniversary of the student's initial enrollment date, and no later than the anniversary date. This process shall be completed annually thereafter.

(2) Any student being considered for extension of services shall be assessed on at least one (1) Department-approved assessment instrument. The assessment shall be administered no earlier than thirty (30) school days prior to the student's anniversary date. If the student's anniversary date falls within the first two (2) weeks of the school year, the student's CELLA and applicable FCAT scores from the prior school year will suffice, and a more recent assessment is not required. The assessment must cover all four (4) domains, of listening, speaking, reading, and writing.

(3) The ELL Committee shall review the student's academic record holistically and shall consider the assessment results from the assessment administered under subsection (2) of this rule and the following criteria to determine whether the student is English language proficient:

a. Extent and nature of prior educational or academic experience, social experience, and a student interview;

b. Written recommendation and observation by current and previous instructional and supportive services staff;

c. Level of mastery of basic competencies or skills in English and/or heritage language according to appropriate state or national criterion-referenced standards, if any;

d. Grades from the current or previous years; and

e. Test results from tests other than the assessment according to subsection (2) of this rule.

(4) If a majority of the ELL Committee determines that the student is not English language proficient, ESOL services shall be extended. If a majority of the ELL Committee determines that the student is English language proficient, the student shall be exited from the ESOL program. The parents' preference as to whether the student is determined English language proficient or not English language proficient shall be considered in the final decision. If an ELL Committee extends services, the Committee shall refer the student as necessary for appropriate remedial, compensatory, special and supportive service evaluations, and programs.

(5) The basis and nature of the ELL Committee's decision on whether to extend or not to extend ESOL services shall be documented and maintained in the student's file.

(6) English Language Learners provided ESOL or heritage language instruction may be reported for funding in the Florida Educational Finance Program as specified in Section 1011.62, Florida Statutes. Lack of a student's ESOL funding eligibility does not relieve a school district of any obligation it may have under state or federal law to continue to provide appropriate services to ELLs beyond the state ESOL program funding limits.

Rulemaking Authority 1001.02, 1003.56 FS. Law Implemented 1003.56, 1011.62 FS. History--New _____.

(Substantial rewording of Rule 6A-6.0903 follows. See Florida Administrative Code for present text.)

6A-6.0903 Requirements for Exiting English Language Learners from the English for Speakers of Other Languages Program.

(1) Each student identified as an English Language Learner (ELL) shall continue to receive appropriate instruction until such time as the student is reclassified as English proficient and exited from the English for Speakers of Other Languages (ESOL) Program. English proficiency shall be determined by assessing the student utilizing the annual Comprehensive English Language Learning Assessment (CELLA) and Florida Comprehensive Achievement Assessment (FCAT) in Reading, or by ELL Committee determination, in accordance with this rule.

(2) Standards for Student Exit from the ESOL Program.

(a) An ELL shall be determined English language proficient and exited from the ESOL program upon obtaining:

1. Scores of "Proficient" at the applicable grade level on each CELLA subtest administered annually pursuant to Rule 6A-6.9021, F.A.C; and

2.a. For students in grades K-2, CELLA is the only assessment required and FCAT is not required;

b. For students in grades 3-9, an achievement level of 3 or higher on applicable Florida Comprehensive Achievement Test (FCAT) in Reading;

c. For students in grades 10-12, a score on the 10th grade FCAT in Reading sufficient to meet applicable graduation requirements, or an equivalent concordant score pursuant to Section 1008.22, Florida Statutes.

Upon receipt of the CELLA and FCAT scores, schools shall exit students no later than the last school day of the school year. If CELLA or FCAT Reading scores are received after the end of the school year, schools shall exit students within two weeks after the beginning of the next school year and shall use the last day of the school year in which the FCAT Reading examination was administered as the exit date.

(b)1. Notwithstanding a student's CELLA scores, upon the request of a student's teacher, counselor, administrator, or parent, a student who has been classified as an ELL and enrolled in an English for Speakers of Other Languages (ESOL) program may be re-evaluated for English language proficiency by convening an ELL Committee at any time.

2. Any student being considered for exit by an ELL Committee shall be assessed on at least one Department-approved assessment instrument, which shall be administered no earlier than thirty (30) school days prior to the ELL Committee's determination regarding exit. The assessment must cover all four (4) domains, including listening, speaking, reading, and writing.

3. The ELL Committee shall review the student's academic record holistically and shall consider the assessment results from the assessment administered under subparagraph (2)(b)2. of this rule and the following criteria to determine whether the student is English language proficient:

- a. Extent and nature of prior educational or academic experience, social experience, and a student interview;
- b. Written recommendation and observation by current and previous instructional and supportive services staff;
- c. Level of mastery of basic competencies or skills in English and/or heritage language according to appropriate state or national criterion-referenced standards, if any;
- d. Grades from the current or previous years; and
- e. Test results from tests other than the assessment according to subparagraph (2)(b)2. of this rule.

4. If a majority of the ELL Committee determines that the student is English language proficient, the student shall be exited from the program. If a majority of the ELL Committee determines that the student is not English language proficient, the student shall remain enrolled in the program. The parents' preference as to whether a student is determined English language proficient or not English language proficient shall be considered in the final decision.

5. The ELL Committee shall document the records reviewed by the Committee, which must include each of the criteria in subparagraph (2)(b)3., of this rule. The Committee's decision shall be supported by at least two of the criteria established in subparagraph (2)(b)3., of this rule, and the supporting criteria shall be documented in the student's file.

Rulemaking Specific Authority 1001.02, 1003.56 FS. Law Implemented 1003.56, 1011.62 FS. History--New 10-30-90, Amended 5-19-08, _____.

6A-6.09031 Post Reclassification of English Language Learners (ELLs).

(1) The performance of former ELLs shall be reviewed periodically to ensure parity of participation once they have been classified as English proficient. These reviews shall take place automatically at the student's first report card and semi-annually during the first year after exiting, and at the end of the second year after exiting. Any consistent pattern of either under-performance on appropriate tests or failing grades shall result in the convening of an ELL Committee, after notice to the student's parents of the opportunity to participate. The ELL Committee shall assess the student's need for additional appropriate services, such as ESOL. Special consideration shall be given to any decline in grades and decline in test performance and to parent preference.

(2) The ELL Committee shall recommend an appropriate ELL Student Plan for students reclassified as ELLs. The basis and nature of such recommendations shall be documented and

maintained in the student's file. Any such plan shall be reevaluated for continued appropriateness after one year, and each year thereafter as necessary.

(3) Any student who is reclassified as an ELL shall be provided appropriate instruction on the basis of an annual extension pursuant to a documented determination of the student's needs.

(4) A student who exits the program and is later reclassified as an ELL, may be reported in the ESOL program, as specified in Sections 1003.56 and 1011.62, Florida Statutes. Lack of a student's ESOL funding eligibility does not relieve a school district of any obligation it may have under state or federal law to continue to provide appropriate services to ELLs beyond the state ESOL program funding limits.

Rulemaking Authority 1001.02, 1003.56 FS. Law Implemented 1003.56, 1011.62 FS. History--New _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Dr. Frances Haithcock, Chancellor, K-12 Public Schools
 NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Dr. Eric Smith, Commissioner, Department of Education
 DATE PROPOSED RULE APPROVED BY AGENCY HEAD: May 10, 2011
 DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: October 15, 2010

DEPARTMENT OF EDUCATION

State Board of Education

RULE NO.: 6A-7.0710
 RULE TITLE: Instructional Materials Policies and Procedures

PURPOSE AND EFFECT: The purpose and effect of this new rule is to prescribe the procedures governing the adoption of instructional materials for use by Florida school districts.

SUMMARY: The rule prescribes the policies, procedures, and specifications for submission and review of instructional materials for adoption by the Commissioner of Education.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: The Agency has determined that this will not have an adverse impact on small business or likely increase directly or indirectly regulatory costs in excess of \$200,000 in the aggregate within one year after the implementation of the rule. An SERC has not been prepared by the agency.

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

RULEMAKING AUTHORITY: 1001.02(1), 1006.34(1) FS.
 LAW IMPLEMENTED: 1006.29, 1006.30, 1006.31, 1006.32, 1006.33, 1006.34, 1006.36, 1006.38 FS.

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

DATE AND TIME: June 21, 2011, 8:30 a.m.

PLACE: Orlando, Florida (Please contact Lynn Abbott, Department of Education, (850)245-9661 or lynn.abbott@fldoe.org for the exact location.)

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Mary Jane Tappen, Deputy Chancellor for Curriculum, Instruction, and Student Services, Department of Education, 325 West Gaines Street, Suite 1502, Tallahassee, Florida 32399-0400, (850)245-0509

THE FULL TEXT OF THE PROPOSED RULE IS:

6A-7.0710 Instructional Materials Policies and Procedures.

The policies and procedures for state adoption of instructional materials are prescribed in “Policies and Procedures for the Florida Instructional Materials Adoption 2011,” (<http://www.flrules.org/Gateway/reference.asp?No=Ref-00244>) which is hereby incorporated by reference in this rule. The specifications for instructional materials for 2011-2012 adoption of Social Studies instructional materials are prescribed in “2010 Social Studies Specifications for the 2011-2012 Florida State Adoption of Instructional Materials,” (<http://www.flrules.org/Gateway/reference.asp?No=Ref-00245>) which is hereby incorporated by reference in this rule. These documents may be found at http://www.fldoe.org/bii/instruct_mat or by contacting the Department of Education, 325 West Gaines Street, Room 424, Tallahassee, Florida 32399.

Rulemaking Authority 1001.02(1), 1006.34(1) FS. Law Implemented 1006.29, 1006.30, 1006.31, 1006.32, 1006.33, 1006.34, 1006.36, 1006.38 FS. History—New

NAME OF PERSON ORIGINATING PROPOSED RULE: Dr. Frances Haithcock, Chancellor, K-12 Public Schools

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Dr. Eric Smith, Commissioner, Department of Education

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: May 10, 2011

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: December 3, 2010

DEPARTMENT OF REVENUE

Property Tax Oversight Program

RULE NO.: 12D-9.019
 RULE TITLE: Scheduling and Notice of a Hearing
 PURPOSE AND EFFECT: Paragraph 12D-9.019(7)(b), F.A.C. (Scheduling and Notice of a Hearing), provides a maximum time frame for a petitioner waiting for a hearing before the Value Adjustment Board. The purpose of the proposed

amendment to this rule is to clarify the length of “a reasonable time” to reflect the stated maximum time limit of four hours in Section 194.032(2), F.S.

SUMMARY: In response to the objection to paragraph 12D-9.019(7)(b), F.A.C., as filed by the Joint Administrative Procedures Committee of the Florida Legislature, the Department is amending the rule to reflect the statutory language in Section 194.032(2), F.S., to address the Committee objections.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: The Agency has determined that this will not have an adverse impact on small business or likely increase directly or indirectly regulatory costs in excess of \$200,000 in the aggregate within one year after the implementation of the rule. An SERC has not been prepared by the agency.

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

RULEMAKING AUTHORITY: 194.011(5), 194.034(1), 195.027(1), 213.06(1) FS.

LAW IMPLEMENTED: 194.011, 194.015, 194.032, 194.034, 195.022, 213.05 FS.

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

DATE AND TIME: June 15, 2011, 9:00 a.m.

PLACE: Conference Room 1220, Building 1, Capital Circle Office Complex, 2450 Shumard Oak Blvd., Tallahassee, Florida. The public can also participate in this hearing through a simultaneous electronic broadcast of this event by the Department of Revenue using WebEx and conference calling technology. The requirements to participate are access to the Internet and a telephone. The public can participate in this electronic hearing by accessing the broadcast from their home or office. Specific information about how to participate in this electronic meeting from your home or office will be included in the Agenda for this hearing posted on the Department’s site at: <http://dor.myflorida.com/dor/property/legislation/rules/12d9019.html>.

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 48 hours before the workshop/meeting by contacting: Janice Forrester at (850)617-8886. If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Janice Forrester, Tax Law Specialist, Property Tax Oversight Program, Department of Revenue, P.O. Box 3000, Tallahassee, Florida 32315-3000, telephone (850)617-8886, ForrestJ@dor.state.fl.us

THE FULL TEXT OF THE PROPOSED RULE IS:

12D-9.019 Scheduling and Notice of a Hearing.

(1) through (6) No change.

(7)(a) No change.

(b) In no event shall a petitioner be required to wait more than a reasonable time from the scheduled time to be heard. A reasonable time shall not exceed four hours. The board clerk is authorized to find that a reasonable time has elapsed based on other commitments, appointments or hearings of the petitioner, lateness in the day, and other hearings waiting to be heard earlier than the petitioner’s hearing with the board or special magistrate. If his or her petition has not been heard within a reasonable time, the petitioner may request to be heard immediately. If the board clerk finds a reasonable time has elapsed and petitioner is not heard, the board clerk shall find good cause is present and shall reschedule the petitioner’s hearing.

(c) No change.

(8) No change.

Rulemaking Authority 194.011(5), 194.034(1), 195.027(1), 213.06(1) FS. Law Implemented 194.011, 194.015, 194.032, 194.034, 195.022, 213.05 FS. History—New 3-30-10, Amended_____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Howard Moyes, Deputy Director, Property Tax Oversight Program, Department of Revenue, P. O. Box 3000, Tallahassee, Florida 32315-3000, telephone (850)617-8850

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: The Governor and Cabinet of the State of Florida

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: May 3, 2011

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: According to Section 120.545(3) F.S., a Notice of Proposed Rule Development is not required to be published in the Florida Administrative Weekly before going before the Governor and Cabinet to request approval to publish the Notice of Proposed Rule.

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

Florida Real Estate Appraisal Board

RULE NO.: RULE TITLE:

61J1-4.003 Continuing Education

PURPOSE AND EFFECT: The Board proposes the rule amendment to address the requirement for the three hour course regarding the roles and responsibilities of supervisor and trainee appraisers.

SUMMARY: Language will be clarified regarding the three hour continuing education course which outlines the roles and responsibilities of supervisor and trainee appraisers.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: No Statement of Estimated Regulatory Cost was prepared. The Board has determined that the proposed rule will not have an adverse impact on small business, nor will the proposed rule likely increase directly or indirectly regulatory costs, including transactional costs, in excess of \$200,000 in the aggregate within one year or \$1 million in the aggregate within 5 years after implementation of the rule. Therefore, it has been determined that the rule does not meet the threshold for ratification by the Legislature.

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

RULEMAKING AUTHORITY: 475.614 FS.

LAW IMPLEMENTED: 475.613, 475.618, 475.628 FS.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE SCHEDULED AND ANNOUNCED IN THE FAW.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Juana Watkins, Acting Director, Division of Real Estate, 400 West Robinson Street, Hurston Building, North Tower, Suite N801, Orlando, Florida 32801

THE FULL TEXT OF THE PROPOSED RULE IS:

61J1-4.003 Continuing Education.

(1) All registered, licensed and certified appraisers must satisfactorily complete a minimum of 30 hours of 50 minutes each of appraiser continuing education as prescribed or approved by the Florida Real Estate Appraisal Board, without duplication of material, during each renewal period as defined in Rule 61J1-2.002, F.A.C. The 30 hours shall include the 7-hour National USPAP update course or its equivalent and shall be taught by an AQB certified USPAP instructor, without significant duplication of material, as defined in Section 475.611(1)(q), F.S. A minimum of 3 hours shall be dedicated to a review and update of the Florida Real Estate Appraisal Law and Board Rules, and provide an introduction to other state and federal laws affecting real estate appraisals. ~~As of December 1, 2006, the minimum 30 hours of continuing education must include a minimum of three (3) hours of instruction and cover the following topics regarding the roles and rules of supervisor and trainee appraisers:~~

~~(a) The definitions of direct supervision, registered trainee appraiser, supervisory appraiser, training and work file pursuant to Section 475.611, F.S.;~~

~~(b) Review of Chapter 475, Part II, F.S., sections regarding the post-licensure education requirement for a registered trainee appraiser, displaying and disclosure of licensure, certification or registration, employment of and by registered trainee real estate appraiser, supervision and training of registered trainee appraisers, and retention of records;~~

~~(e) Review of Chapter 61J1, F.A.C., section regarding post-licensing education for registered trainee appraisers, supervision of registered trainee appraisers, displaying and disclosure of registration, licensure or certification designation and advertising; and~~

~~(d) Review of the Uniform Standards of Professional Appraisal Practice as referenced and incorporated by Rule 61J1 9.001, F.A.C., including at least the following topics: USPAP Advisory Opinion 31, USPAP Standards Rules 2-3 and 3-3, signature authority and security, competency, and preparation of appraisals.~~

A registered, licensed or certified appraiser is not required to complete the 30 hours of continuing education as a condition for initial registration, licensure or certification renewal if the time between the effective date on the initial registration, license or certificate and the beginning of the initial registration, licensure or certificate renewal is less than 6 months. Registered appraisers who comply with the Post Licensure requirements and Florida laws and rule update, as set forth in Rule 61J1-4.009, F.A.C., are not required to complete any additional continuing education for that renewal cycle.

(2) through (8) No change.

Rulemaking Authority 475.614 FS. Law Implemented 475.613, 475.618, 475.628 FS. History—New 10-15-91, Amended 4-21-92, 6-7-92, Formerly 21VV-4.003, Amended 11-3-94, 9-5-96, 4-6-98, 9-6-98, 9-14-00, 10-22-01, 3-31-02, 5-25-04, 5-15-05, 1-8-06, 12-4-06, 12-6-07, 6-7-10, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Florida Real Estate Appraisal Board

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Florida Real Estate Appraisal Board

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: January 10, 2011

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: January 7, 2011

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

Florida Real Estate Appraisal Board

RULE NOS.:	RULE TITLES
61J1-10.002	Registered Trainee Real Estate Appraiser
61J1-10.003	Certified Residential Appraiser
61J1-10.004	Certified General Appraiser

PURPOSE AND EFFECT: The Board proposes the rule amendments to address the requirement for the three hour course regarding the roles and responsibilities of supervisor and trainee appraisers.

SUMMARY: Language will be clarified regarding the three hour continuing education course which outlines the roles and responsibilities of supervisor and trainee appraisers.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: No Statement of Estimated Regulatory Cost was prepared. The Board has determined that the proposed rule will not have an adverse impact on small business, nor will the proposed rules likely increase directly or indirectly regulatory costs, including transactional costs, in excess of \$200,000 in the aggregate within one year or \$1 million in the aggregate within 5 years after implementation of the rules. Therefore, it has been determined that the rules do not meet the threshold for ratification by the Legislature.

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

RULEMAKING AUTHORITY: 475.614 FS.

LAW IMPLEMENTED: 475.611(1)(n), (o), (p), 475.613(2), 475.615, 475.617(1), (2), (3) FS.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE SCHEDULED AND ANNOUNCED IN THE FAW.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Juana Watkins, Acting Director, Division of Real Estate, 400 West Robinson Street, Hurston Building, North Tower, Suite N801, Orlando, Florida 32801

THE FULL TEXT OF THE PROPOSED RULES IS:

61J1-10.002 Registered Trainee Real Estate Appraiser.

(1) An applicant for registration as a trainee real estate appraiser must present evidence satisfactory to the Board that the applicant has successfully completed at least 100 classroom hours in approved academic courses in subjects related to real estate appraisal, including the following required curriculum:

(a) through (c) No change.

(d) Appraisal Subject Matter Electives (25 hours) which shall include six (6) hours of the Florida laws and rules ~~and three (3) hours of Roles and Responsibilities of Supervisors and Trainees.~~

(2) Board approved pre-registration courses for trainee appraisers must include the following subject matter:

(a) through (m) No change.

~~(n) Effective January 1, 2008, Board approved pre registration courses for trainee appraisers must include a minimum of three (3) hours of instruction and cover the following topics regarding the roles and rules of supervisor and trainee appraisers:~~

~~1. The definitions of direct supervision, registered trainee appraiser, supervisory appraiser, training and work file pursuant to Section 475.611(1)(k), (n), (o), (p), (s), F.S.~~

~~2. Review of Chapter 475, Part II, F.S., sections regarding the postlicensure education requirement for a registered trainee appraiser, displaying and disclosure of licensure, certification~~

~~or registration, employment of and by registered trainee real estate appraiser, supervision and training of registered trainee appraisers, and retention of records.~~

~~3. Review of Chapter 61J1, F.A.C., sections regarding postlicensing education for registered trainee appraisers, supervision of registered trainee appraisers, display and disclosure of registration, licensure or certification designation and advertising.~~

~~4. Review of the Uniform Standards of Professional Appraisal Practice as referenced and incorporated by Rule 61J1-9.001, F.A.C., including at least the following topics: USPAP Advisory Opinion 31, USPAP Standards Rules 2-3 and 3-3, signature authority and security, competency, and preparation of appraisals.~~

(3) through (5) No change.

Rulemaking Authority 475.614 FS. Law Implemented 475.611(1)(n), (o), (p), 475.613(2), 475.615, 475.617(1) FS. History—New 12-27-07, Amended 3-31-09,_____.

61J1-10.003 Certified Residential Appraiser.

An applicant for certification as a residential real estate appraiser must present evidence satisfactory to the Board that the applicant meets the following minimum education, experience, and examination requirements:

(1) Education requirement.

(a) through (b) No change.

(c) Satisfactory completion of at least 200 classroom hours in approved academic courses in subjects related to real estate appraisal, including the following required core curriculum that are prerequisites to taking the AQB-approved examination in subsection (3) of this rule:

1. through 9. No change.

10. Appraisal Subject Matter Electives (20 hours) which shall include six (6) hours of the Florida laws and rules ~~and three (3) hours of the Roles and Responsibilities of Supervisors and Trainees.~~

(2) through (3) No change.

Rulemaking Authority 475.614 FS. Law Implemented 475.613(2), 475.615(2), 475.617(2) FS. History—New 12-27-07, Amended 3-31-09,_____.

61J1-10.004 Certified General Appraiser.

An applicant for certification as a general real estate appraiser must present evidence satisfactory to the Board that the applicant meets the following minimum education, experience, and examination requirements:

(1) Education requirement.

(a) through (b) No change.

(c) Satisfactory completion of at least 300 classroom hours in approved academic courses in subjects related to real estate appraisal, including the following required core curriculum that are prerequisites to taking the AQB-approved examination in subsection (3) of this rule:

1. through 9. No change.

10. Appraisal Subject Matter Electives (30 hours) which shall include six (6) hours of the Florida laws and rules ~~and three (3) hours of the Roles and Responsibilities of Supervisors and Trainees.~~

(2) through (3) No change.

Rulemaking Authority 475.614 FS. Law Implemented 475.613(2), 475.615(2), 475.617(3) FS. History—New 12-27-07, Amended 3-31-09,_____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Florida Real Estate Appraisal Board

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Florida Real Estate Appraisal Board

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: January 10, 2011

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: January 7, 2011

DEPARTMENT OF HEALTH

Board of Optometry

RULE NO.: 64B13-4.001 RULE TITLE: Examination Requirements

PURPOSE AND EFFECT: The purpose of this amendment is to correct the title of the examination necessary for certification by Florida licensed optometrists. The NBEO no longer gives the TMOD exam standing on its own, but has incorporated it into part II of the examination.

SUMMARY: The rule will correct the title of the examination necessary for certification by Florida licensed optometrists. The NBEO no longer gives the TMOD exam standing on its own, but has incorporated it into part II of the examination.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: The Agency has determined that this will not have an adverse impact on small business or likely increase directly or indirectly regulatory costs in excess of \$200,000 in the aggregate within one year after the implementation of the rule. An SERC has not been prepared by the agency.

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

RULEMAKING AUTHORITY: 456.017(1), 463.005, 463.006(2) FS.

LAW IMPLEMENTED: 456.017(1), 463.006(2) FS.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE SCHEDULED AND ANNOUNCED IN THE FAW.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Bruce Deterding, Executive Director, Board of Optometry, 4052 Bald Cypress Way, Bin #C07, Tallahassee, Florida 32399-3257

THE FULL TEXT OF THE PROPOSED RULE IS:

64B13-4.001 Examination Requirements.

(1) through (3) No change.

(4) Certification Examination. A licensee applying for certification must obtain a passing score on the ~~TMOD~~ part II of the NBEO or must have obtained a passing score on the state certification examination.

Rulemaking Authority 456.017(1), 463.005, 463.006(2) FS. Law Implemented 456.017(1), 463.006(2) FS. History—New 11-13-79, Amended 5-28-80, 7-10-80, 8-20-81, 2-14-82, 6-6-82, 10-3-82, 4-10-84, 5-29-85, Formerly 21Q-4.01, Amended 7-21-86, 11-20-86, 7-27-87, 7-11-88, 7-18-91, 4-14-92, Formerly 21Q-4.001, Amended 2-14-94, Formerly 61F8-4.001, Amended 8-8-94, 11-21-94, 4-21-96, Formerly 59V-4.001, Amended 7-27-99, 7-15-02, 3-8-04, 4-22-10, 10-13-10,_____.

NAME OF PERSON ORIGINATING PROPOSED RULE:

Board of Optometry

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Board of Optometry

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: October 22, 2010

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: November 5, 2010

DEPARTMENT OF HEALTH

Board of Optometry

RULE NO.: RULE TITLE:

64B13-5.002 Criteria for Approval

PURPOSE AND EFFECT: The purpose of the amendment is to update references to other rules.

SUMMARY: The rule amendment will update references to other rules.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: The Agency has determined that this will not have an adverse impact on small business or likely increase directly or indirectly regulatory costs in excess of \$200,000 in the aggregate within one year after the implementation of the rule. An SERC has not been prepared by the agency.

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

RULEMAKING AUTHORITY: 456.013, 463.005(1) FS.

LAW IMPLEMENTED: 463.007(4) FS.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE SCHEDULED AND ANNOUNCED IN THE FAW.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Bruce Deterding, Executive Director, Board of Optometry, 4052 Bald Cypress Way, Bin #C07, Tallahassee, Florida 32399-3257

THE FULL TEXT OF THE PROPOSED RULE IS:

64B13-5.002 Criteria for Approval.

(1) In determining whether to approve a program of continuing professional education, the Board shall consider whether the program contributes to the improvement, advancement, and extension of one’s professional skill and knowledge to the benefit of the patient he or she serves. Continuing education courses in Florida jurisprudence as stated in paragraphs 64B13-5.001(1)(e) ~~and (f)~~, F.A.C., shall be provided by an individual or organization with demonstrated competence in Florida Law pertaining to optometric practice as evidenced by the individual or organization’s credentials, education and experience.

(2) Approval of non-transcript quality continuing education programs.

(a) No change.

(b) A non-transcript quality continuing education program shall be approved upon presentation of the following information by the program or course provider or by a licensed practitioner who attended the course:

1. through 3. No change.

4. Evidence that the fees specified in subsections 64B13-6.001(14) and (15) ~~and (16)~~, F.A.C., have ~~has~~ been paid; provided however, should the provider not seek approval of the course, the licensed practitioner seeking approval of the course shall pay the fee.

5. No change.

(3) Approval of transcript quality continuing education programs.

(a) No change.

(b) A transcript quality continuing education program shall be approved upon presentation of the following:

1. through 6. No change.

7. Evidence that the fees specified in subsections 64B13-6.001(14) and (15) ~~and (16)~~, F.A.C., have ~~has~~ been paid.

(c) No change.

(4) No change.

Rulemaking Authority 456.013, 463.005(1) FS. Law Implemented 463.007(4) FS. History—New 11-13-79, Formerly 21Q-5.02, Amended 12-16-86, 12-11-88, 7-10-91, 10-28-92, Formerly 21Q-5.002, 61F8-5.002, Amended 11-29-94, 7-5-95, 8-18-96, Formerly 59V-5.002, Amended 3-21-00, 5-8-02, 8-19-03, 12-26-05, 12-25-06, 4-21-10,_____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Board of Optometry

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Board of Optometry

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: October 22, 2010

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: November 5, 2010

DEPARTMENT OF HEALTH

Board of Optometry

RULE NO.: 64B13-7.005 RULE TITLE: Terms of Probation

PURPOSE AND EFFECT: The purpose of the amendment is to delete language not supported by statutory authority in paragraph (1)(b), clarify and limit the authority of the probation committee, and update the name of the consultant approved by the Department for the impaired practitioners program.

SUMMARY: The rule amendment will delete language not supported by statutory authority in subparagraph (1)(b)m., clarify and limit the authority of the probation committee, and update the name of the consultant approved by the Department for the impaired practitioners program.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: The Agency has determined that this will not have an adverse impact on small business or likely increase directly or indirectly regulatory costs in excess of \$200,000 in the aggregate within one year after the implementation of the rule. An SERC has not been prepared by the agency.

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

RULEMAKING AUTHORITY: 463.005 FS.

LAW IMPLEMENTED: 463.0072(2) FS.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE SCHEDULED AND ANNOUNCED IN THE FAW.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Bruce Deterding, Executive Director, Board of Optometry, 4052 Bald Cypress Way, Bin #C07, Tallahassee, Florida 32399-3257

THE FULL TEXT OF THE PROPOSED RULE IS:

64B13-7.005 Terms of Probation.

(1) Any licensee ordered to serve probation by final order of the Board, shall be subject to the following:

(a) No change.

(b) Any deviation from the requirements of the probation without prior written consent of the Board shall constitute a violation of this probation. Upon recommendation of the Probation Committee or the Probable Cause Committee that a violation of this probation has occurred, the Board may suspend or take other lesser action against the Respondent's

license. The Respondent will be given notice of the possible action and an opportunity to show why the Board should not take action against the respondent's license.

(c) No change.

(d) Respondent shall appear before the Board or Probation Committee at the first meeting of the Board or Probation Committee after said probation commences, at the last meeting of the Board or Probation Committee preceding termination of probation, and at such other times as requested by the Board or Probation Committee.

(e) No change.

(f) Respondent shall submit reports to the Probation committee at intervals specified by the Board or the Probation Committee. The Reports shall include:

1. through 6. No change.

7. Notarized copies of a number specified by the Board or Probation Committee of patient records of patients examined or treated by the respondent within the previous 60 days. To protect patient confidentiality the patients' names should be suitably covered on the copies.

8. Other information as may be specified by the Board or the Probation Committee.

(g) through (h) No change.

(2) If specified in the Final Order, the respondent shall be subject to the following probationary terms:

(a) through (c) No change.

(d) Respondent shall see a psychiatrist or psychologist approved by the Board or Probation Committee at intervals specified by the Board or the Probation Committee for evaluations and treatment.

(e) No change.

(f) Respondent shall comply with all of the conditions of his/her after care contract with the Florida Professionals Resource Physician's Recovery Network.

(g) through (k) No change.

Rulemaking Specific Authority 463.005 FS. Law Implemented 456.072(2) FS. History-New 7-18-90, Formerly 21Q-7.005, 61F8-7.005, Amended 11-29-94, 5-29-95, Formerly 59V-7.005, Amended _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Board of Optometry

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Board of Optometry

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: October 22, 2010

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: November 5, 2010

DEPARTMENT OF HEALTH

Board of Optometry

RULE NO.: 64B13-10.001 RULE TITLE: Application for Certification

PURPOSE AND EFFECT: The purpose of the amendment is to conform the rule to Rule 64B13-4.001, F.A.C.

SUMMARY: The rule amendment will conform the rule to Rule 64B13-4.001, F.A.C.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: The Agency has determined that this will not have an adverse impact on small business or likely increase directly or indirectly regulatory costs in excess of \$200,000 in the aggregate within one year after the implementation of the rule. An SERC has not been prepared by the agency.

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

RULEMAKING AUTHORITY: 463.005(1), 463.0055 FS.

LAW IMPLEMENTED: 463.0055 FS.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE SCHEDULED AND ANNOUNCED IN THE FAW.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Bruce Deterding, Executive Director, Board of Optometry, 4052 Bald Cypress Way, Bin #C07, Tallahassee, Florida 32399-3257

THE FULL TEXT OF THE PROPOSED RULE IS:

64B13-10.001 Application for Certification.

To be certified to administer and prescribe topical ocular pharmaceutical agents a licensed practitioner must submit a completed application, DPR/OPT/006(A), revised 1/89, hereby incorporated by reference, provided by the Board; remit the application fee for certification specified in subsection 64B13-6.001(9), F.A.C.; and demonstrate compliance with the following requirements:

- (1) through (2) No change.
- (3) Successful completion of part II of the NBEO a Board approved examination testing knowledge of general and ocular pharmacology with particular emphasis on the topical application and side effects of pharmaceutical agents.

Rulemaking Specific Authority 463.005(1), 463.0055 FS. Law Implemented 463.0055 FS. History—New 11-20-86, Amended 7-6-88, 3-16-89, Formerly 21Q-10.001, 61F8-10.001, Amended 10-4-94, Formerly 59V-10.001, Amended.

NAME OF PERSON ORIGINATING PROPOSED RULE: Board of Optometry

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Board of Optometry

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: October 22, 2010

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: November 5, 2010

DEPARTMENT OF HEALTH

Board of Optometry

RULE NO.: 64B13-18.002 RULE TITLE: Formulary of Topical Ocular Pharmaceutical Agents

PURPOSE AND EFFECT: The Board is correcting the concentration percentage of Bromfenac, increasing the concentration of Gatifloxacin and adding the anti-allergy medication Alcaftadine.

SUMMARY: This rule will correct the concentration percentage of Bromfenac, increase the concentration of Gatifloxain and add the anti-allergy medication Alcaftadine.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: The Agency has determined that this will not have an adverse impact on small business or likely increase directly or indirectly regulatory costs in excess of \$200,000 in the aggregate within one year after the implementation of the rule. An SERC has not been prepared by the agency.

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

RULEMAKING AUTHORITY: 463.005, 463.0055(2)(a) FS.

LAW IMPLEMENTED: 463.0055 FS.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE SCHEDULED AND ANNOUNCED IN THE FAW.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Bruce Deterding, Executive Director, Board of Optometry/MQA, 4052 Bald Cypress Way, Bin #C07, Tallahassee, Florida 32399-3257

THE FULL TEXT OF THE PROPOSED RULE IS:

64B13-18.002 Formulary of Topical Ocular Pharmaceutical Agents.

The topical ocular pharmaceutical formulary consists of pharmaceutical agents which a certified optometrist is qualified to administer and prescribe in the practice of optometry pursuant to Section 463.0055(2)(a), F.S. The topical ocular pharmaceutical agents in the formulary include the following legend drugs alone or in combination in concentrations up to those specified, or any lesser concentration that is commercially available:

- (1) through (3) No change.
- (4) ANTIBACTERIAL
- (a) through (k) No change

(l) Gatifloxacin - 0.5% ~~0.3%~~

(m) through (p) No change

(5) NON-STEROIDAL AND STEROIDAL ANTI-INFLAMMATORY AGENTS

(a) through (l) No change.

(m) Bromfenac - .09% ~~0.90%~~

(n) through (o) No change.

(6) ANTIHISTAMINES, MAST CELL STABILIZERS AND ANTI-ALLERGY AGENTS

(a) through (h) No change.

(i) Alcaftadine - .25%

(7) through (9) No change.

Rulemaking Authority 463.005, 463.0055(2)(a) FS. Law Implemented 463.0055 FS. History--New 3-30-87, Amended 4-5-88, 5-7-90, Formerly 21-18.002, Amended 5-10-92, 1-29-93, Formerly 21Q-18.002, Amended 8-31-93, 7-30-94, Formerly 61F8-18.002, Amended 2-11-96, 4-21-96, 1-12-97, 6-8-97, Formerly 59V-18.002, Amended 6-15-00, 6-7-05, 6-10-06, 6-26-08, 10-16-08, 3-23-09, 6-28-09, 10-18-09, 4-21-10, 11-16-10,_____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Board of Optometry

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Board of Optometry

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: April 1, 2011

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: November 5, 2010

DEPARTMENT OF FINANCIAL SERVICES

Division of Funeral, Cemetery, and Consumer Services

RULE NO.: 69K-17.0035 RULE TITLE: Communicable Disease Education Required for Operational Personnel

PURPOSE AND EFFECT: To specify communicable disease education required for operational personnel of funeral establishments and certain other categories of licensees under Chapter 497, F.S. This rulemaking will amend existing rule 17.0035, to implement mandatory rulemaking required by enactment of section 11 of Chapter 2010-125, Laws of Florida.

SUMMARY: This is mandatory rulemaking. The legislature has provided in Section 497.162, F.S., that rules "shall" be adopted on the subject matter in question. This rulemaking action implements changes to Section 497.162, Florida Statutes, as enacted by the Florida legislature in Chapter 2010-125, Laws of Florida. The rule relates to required training in communicable diseases which must be obtained by certain non-licensed staff of certain licensed establishments. The rule REDUCES regulatory burdens upon affected licensees, in that it narrows the category of licensee staff who must have the

required communicable disease education, and it increases the time the licensee has to have the affected staff obtain the required communicable disease training.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: The Agency has determined that this will not have an adverse impact on small business or likely increase directly or indirectly regulatory costs in excess of \$200,000 in the aggregate within one year after the implementation of the rule. An SERC has been prepared by the agency.

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

RULEMAKING AUTHORITY: 497.103(5); 497.162 FS.

LAW IMPLEMENTED: 497.162 FS.

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

DATE AND TIME: June 15, 2011, 9:00 a.m.

PLACE: Room 332, Pepper Building, 111 W. Madison Street, Tallahassee, Florida

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 48 hours before the workshop/meeting by contacting: LaTonya Bryant Parker, at (850)413-4957. If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Douglas Shropshire, Executive Director, Board of Funeral, Cemetery, and Consumer Services, Division of Funeral, Cemetery, and Consumer Services, Department of Financial Services, 200 East Gaines Street, Tallahassee, FL 32399-0361, (850)413-4984, shropshired@MyFloridaCFO.com. Direct any request for a hearing to Mr. Shropshire

THE FULL TEXT OF THE PROPOSED RULE IS:

(Substantial rewording of Rule 96K-17.0035 follows. See Florida Administrative Code for present text.)

69K-17.0035 Communicable Disease Education Required for Operational Personnel.

(1) This rule implements Section 497.162, Florida Statutes.

(2) "Operational Personnel" subject to the communicable disease course required under Section 497.162, F.S., shall be those unlicensed staff of any funeral establishment, direct

disposal establishment, cinerator facility, removal service, refrigeration facility, or centralized embalming facility, who have direct contact with human remains. "Staff" as used in this rule includes persons who are directly employed by the establishment, facility, or service, as well as staff provided to the establishment, facility, or service by or through an employee leasing firm, temporary staffing firm, or similar business.

(3) For purposes of this rule human remains includes a body, a detached body part, or any body fluids in, taken from, or seeping from, human remains.

(4) For purposes of this rule direct contact includes touching the human remains whether or not the staff is wearing gloves or other protective gear. Direct contact includes contact with clothes being worn on the human remains.

(5) The course required by Section 497.162, F.S., shall be a course approved by the Board for at least 2 hours of continuing education credit in the communicable disease category under Rule 69K17.0042, Florida Administrative Code, covering the basic elements of communicable disease risks and risk prevention and mitigation in the deathcare industry context. The course may be taken through use of pre-recorded DVD or video-cassette, or other type of audio, video, Internet, or home study course.

(6) All persons subject to Section 497.162, F.S., shall maintain a certificate of completion showing proof of meeting the communicable disease education requirement as a condition of employment with any establishment, facility or service regulated under Chapter 497, F.S.

Rulemaking Authority 497.103(1)(s), (5)(a), 497.162 FS. Law Implemented 497.162 FS. History--New 4-10-94, Amended 9-10-96, 11-20-96, 6-24-01, Formerly 61G8-17.0035, Amended 6-9-09, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Douglas Shropshire, as Executive Director, Board of Funeral, Cemetery, and Consumer Services

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Board of Funeral, Cemetery, and Consumer Services, under Section 497.101, F.S.

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: January 6, 2011

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: January 7, 2011

Section III Notices of Changes, Corrections and Withdrawals

DEPARTMENT OF EDUCATION

State Board of Education

RULE NO.:	RULE TITLE:
6A-1.09412	Course Requirements – Grades K-12 Basic and Adult Secondary Programs

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. 37, No. 15, April 15, 2011 issue of the Florida Administrative Weekly.

Rule 6A-1.09412, FAC., is amended to read:

6A-1.09412 Course Requirements – Grades K-12 Basic and Adult Secondary Programs.

A course description directs district personnel by providing the essential content and course requirements for each course in grades K-12 contained in the "Course Code Directory and Instructional Personnel Assignments" adopted by Rule 6A-1.09441, F.A.C. Course requirements approved by the State Board of Education are contained in the publication "2011-2012 Florida Course Descriptions for Grades K-12/Adult, Basic Education", (<http://www.flrules.org/Gateway/reference.asp?No=Ref-00222>) which is hereby incorporated by reference and made a part of this rule. ~~District school boards of education are authorized, through local rules, to approve a variance of up to ten (10) percent of the course requirements of each course description.~~ Copies of approved course descriptions may be obtained from K-12 Public Schools, Department of Education, 325 West Gaines Street, Tallahassee, Florida 32399 or online at <http://www.floridastandards.org>.

Rulemaking Authority 1001.03(1), 1011.62(1)(u) FS. Law Implemented 1001.42(7), 1003.42, 1011.62(1)(u) FS. History--New 2-21-85, Formerly 6A-1.9412, Amended 1-29-86, 1-1-87, 9-6-88, 12-13-88, 12-11-89, 1-15-91, 2-20-92, 6-6-93, 10-18-94, 8-28-95, 5-14-96, 9-15-97, 10-13-98, 5-3-99, 5-3-01, 10-15-01, 12-17-02, 7-26-05, 11-21-05, 7-27-06, 1-18-07, 3-24-08, 10-21-09, 5-3-10, _____.

DEPARTMENT OF EDUCATION

State Board of Education

RULE NO.:	RULE TITLE:
6A-2.0040	Sanitation Standards in K-12 Private Schools

NOTICE OF CONTINUATION

Notice is hereby given that the above rule, as noticed in Vol. 37, No. 15, April 15, 2011 Florida Administrative Weekly has been continued from May 17, 2011 to June 21, 2011.