

**Section III**  
**Notices of Changes, Corrections and**  
**Withdrawals**

**DEPARTMENT OF STATE**

**Division of Elections**

RULE NO.:                      RULE TITLE:  
IS-2.004                      Voting Machine Equipment  
   Regulation/Purchase, Use and Sale  
   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. 38, September 23, 2011 issue of the Florida Administrative Weekly.

Based upon written comments received from the Joint Administrative Procedures Committee, paragraph (a) of subsection (3) has been revised to correct a statutory reference and procedure for exceptions to the competitive bid process, and will now read as indicated below. Additionally, the numbering of subsections (5)-(7) has been corrected to subsections (5)-(8).

(3) Regulations for Purchase.

(a) Competitive Solicitation Process.

1. When the individual or combined total purchase or sale price of voting equipment or system exceeds the threshold amount for Category Two purchases under Section 287.017, F.S., the governing body shall follow the applicable local procurement policies, procedures and rules for competitive solicitation to the extent not otherwise addressed in this subsection.

2. If the governing body determines, pursuant to Section 101.293, F.S., that an emergency situation exists or that there is only a single source available for the voting system or equipment, the chair of the governing body shall certify the situation and conditions for the exception to the Division within 10 days of the governing body's approval to acquire the equipment or system outside the competitive solicitation process and any requirements in this subsection.

3. The governing body shall enter all bids, tabulations of bids, and responses related to bids in a permanent record and maintain the record for public inspection upon request, subject to exemptions or restrictions under applicable public records and copyright laws.

**DEPARTMENT OF STATE**

**Division of Elections**

RULE NO.:                      RULE TITLE:  
IS-2.039                      FVRS Voter Registration Procedures  
   NOTICE OF CHANGE

Notice is hereby given that the following changes have been made to the proposed rule in accordance with subparagraph 120.54(3)(d)1., F.S., published in Vol. 37, No. 36, September 9, 2011 issue of the Florida Administrative Weekly.

Based upon written comments received for the public hearing and from the Joint Administrative Procedures Committee, subsections (3), (4)(b)-(c), (7) and (11) have been revised substantively to clarify the processes for searching FVRS for existing records, for entering names that are not legible, for entering source code, for manually registering certain voters who are victims of violence and entitled to confidentiality as to their address, respectively. In addition, subsection (9) is changed to extend the image scanning period from 3 to 5 days. Due to the integrated nature of the rule, however, these changes are presented within the context of the proposed rule which is published in its entirety to read as follows:

IS-2.039 FVRS Voter Registration Procedures.

(1) Applicability. The rule sets forth procedures to ensure that voter registration is conducted uniformly throughout the state.

(2) Definitions. The terms herein shall have the following meaning:

(a) "BVRS" refers to the Bureau of Voter Registration Services.

(b) "DHSMV" refers to the Florida Department of Highway Safety and Motor Vehicles.

(c) "FVRS" refers to the Florida Voter Registration System that contains the official list of registered voters in the state.

(d) "Personal identifying number" or "PIN" refers to the applicant's or registered voter's Florida driver's license number, Florida identification number or the last four digits of his or her social security number.

(e) "SSA" refers to the Social Security Administration.

(f) "SSN4" refers to the last four digits of an applicant's or registered voter's social security number.

(g) "Supervisor" refers to the Supervisor of Elections.

(h) "Valid application" refers to any application as referenced in Section 97.052, F.S.

(i) "Voter registration agency" refers to any entity designated as a voter registration agency by the National Voter Registration Act (NVRA) of 1993 (42 U.S.C. 1973gg-5(a) and (c)), or by Section 97.021, F.S., to offer persons opportunity to register to vote.

(j) "Voter registration official" or "registration official" as used interchangeably herein has the same meaning ascribed in Section 97.021, F.S.

(3) Existing record search. Before entering application information into the FVRS, the voter registration official must determine if a record already exists in the FVRS. For purposes of this subsection "existing record" refers to either a

registration record with a status of active, pre-registered or inactive, or an application record with a status of pending or incomplete. Such determination must be based on verifying as much match data with the existing record as possible. Match data includes but is not limited to name, date of birth, gender, address and personal identifying number (Florida driver's license or state identification card number or last four digits of the social security number.

(a) If the voter registration official determines that an existing record identified by FVRS belongs to the applicant, the registration official shall update the existing record with the new information. If the FVRS identifies more than one existing record within the same county, the registration official shall first update the FVRS to reflect only one active record for the voter as set forth in paragraph (d). The registration official shall then update the active record with the information from the application.

(b) If the voter registration official determines that two or more existing records in other counties identified by FVRS belong to the new applicant, the registration official shall notify the other registration official or officials about those records. The registration officials shall coordinate resolution of the duplicate records as follows: If the registration date on the more recent record is prior to January 1, 2006, the older registration record shall be recorded as removed in the FVRS and the latest record retained as the voter's active registration record. The registration official shall assign a code in the FVRS to reflect the basis for removal as duplicate registration record. If the registration date on the more recent record is on or after January 1, 2006, the older registration record shall be updated with the newer county of residence information in the newer record. The registration official shall then update the record with the information from the application.

(c) If the voter registration official determines that none of the existing records identified by FVRS belong to the new applicant, the registration official shall enter the voter registration information into a new record.

(d) If an application essentially duplicates all the same information as is on the voter's existing record, the official shall process, scan and clip the signature from the application to update the signature on record in FVRS. The voter shall be sent notice pursuant to Section 97.073, F.S. Such notice may be satisfied by issuance of a voter information card. For purposes of this paragraph only, "same information" refers to the same name, same residence address, same date of birth, same driver's license number, state identification card number, or social security number, and same political party affiliation.

(e) The FVRS shall contain only one voter registration record (with a status of active, inactive, or pre-registered) for each registered voter.

(f) If an application indicates that a registered voter's legal residence for voter registration or voting purposes did or might have changed out-of-state in the interim, the registered voter's

existing record shall not be removed solely on that basis. The application shall be processed as an update to the existing record without assigning a new FVRS identification number.

(4) Data entry. Except as provided in subsection (11) and subject to the following, a voter registration official shall enter into the FVRS all information from valid and invalid applications for new registration or registration record update to the extent that the FVRS is able to accept or recognize the information as valid data:

(a) A registration official shall not complete or fill in a missing field for a new applicant that is otherwise left blank on a valid application unless the application includes a copy of the applicant's personal identifying number. The applicant shall be notified in accordance with Sections 97.052(6) and 97.073, F.S., if the application for new registration is incomplete, i.e., that the application does not contain all the information necessary to establish the applicant's eligibility under Section 97.041, F.S. and/or to allow for verification of the applicant's identity as required per Section 97.053(6), F.S. If the applicant submits on a supplemental application the mandatory information missing from the previously submitted application, the registration official shall consider all information between the two applications for purposes of determining whether the applicant has provided all the information required for a complete application. However, both applications must include the applicant's signature.

(b) If the applicant submits his or her application for new registration or registration update on any form other than recognized as acceptable pursuant to Section 97.052(2) or 97.052(5), F.S., the Supervisor of Elections for the voter's county of residence shall forward a valid application form for the applicant to complete in order that his or her application may be processed for either new registration or update.

(c) A registration official shall enter information from an application for new registration or registration update as it appears on the application, except as follows:

1. Only the new applicant's SSN4 shall be entered into the FVRS even if the applicant provides the full number. The number on the original application shall not be altered.

2. The applicant's name shall be inputted as contained in the application field soliciting the applicant's name. If a registration official is unable to discern the correct or intended spelling of the name on the application through a comparison of the printed name and the signature, the printed name shall be entered to the extent possible. If the field for the name is blank or the name completely illegible, the application shall be processed as incomplete. The Supervisor for the applicant's county of residence shall then notify the applicant in accordance with Section 97.073, F.S.

(d) Each application for new registration, update to an existing registration record, and application with supplemental information to a previously submitted application for new

registration must include the original signature, or in the case of electronic records transmitted from DHSMV, include the digital signature.

(5) Verification of personal identifying number. Any valid application for new registration that is complete and submitted other than electronically through DHSMV shall be routed to DHSMV or SSA, whichever is applicable, for verification of the authenticity or nonexistence of the PIN provided on the application. However, no application shall be routed to DHSMV for verification unless the Supervisor first determines that the applicant is otherwise eligible in accordance with Section 97.041, F.S.

(a) Personal identifying number provided.

1. If the PIN is verified, the new applicant's completed application shall become the official registration record and the applicant's name shall be listed as an active voter in the FVRS.

2. If the PIN cannot be verified, the application record is routed through the FVRS to the BVRS. The BVRS shall check for data entry errors using the scanned image of the application in the FVRS, and a comparison of information available from DHSMV. If a data entry error occurred, the BVRS shall correct the application record and resubmit the record to DHSMV or SSA for verification. If no data entry error occurred, but the BVRS is able to confirm that the number belongs to the applicant, the BVRS shall override the FVRS to complete the registration process. The applicant's completed application shall become the official registration record and the applicant's name shall be listed as an active voter in the FVRS.

3. If the BVRS is unable to resolve the verification issue, the BVRS shall flag the record as unverified and the application record is sent through the FVRS to the Supervisor of the new applicant's county of residence. The Supervisor shall send a "Notice to Applicant". The notice shall be in, or substantially in, the form provided in DS-DE # 122 (eff. /) (<https://www.flrules.org/Gateway/reference.asp?No=Ref-0058> 3). This form is hereby incorporated by reference. A copy of the form may be obtained from the Division of Elections, Room 316, R.A. Gray Building, 500 South Bronough Street, Tallahassee, Florida 32399-0250, or is available from the Division of Elections' website at: <http://election.dos.state.fl.us>, or by contacting the Division of Elections at (850)245-6200.

4. If it is determined after notice to the voter is sent that a data entry error of the PIN occurred, the applicant's record shall be corrected and the PIN resubmitted through the FVRS for verification by DHSMV or SSA, whichever is applicable.

5. If the new applicant provides evidence of his or her PIN, the Supervisor shall retain a copy of the evidence as part of the applicant's application but shall not scan the evidence into the FVRS. The Supervisor shall change in the FVRS the source of the applicant's number from "F" (referring to form) to "P" (referring to proof). If the PIN presented to the Supervisor is different from the PIN provided on the application, the new PIN shall replace the old number.

However, if the new PIN is a different type of PIN, then the Supervisor shall also record the type and the new PIN in the FVRS. The Supervisor shall not change the old PIN on the application or submit the new PIN to DHSMV or SSA for verification. The applicant's completed application shall become the official registration record. The applicant shall be listed as an active voter in the FVRS.

(b) No personal identifying number. If a new applicant does not provide a PIN and checks or writes "NONE," on the application, the new applicant's record shall be routed first to DHSMV or SSA, and then if needed, to the BVRS, to determine if a personal identifying number might exist:

1. If a PIN is found to exist for the new applicant, the application record shall be sent to the Supervisor of the applicant's county of residence for resolution. The Supervisor shall contact the applicant and provide him or her with an opportunity to resolve the matter. If the applicant provides evidence of a PIN, the Supervisor shall follow the process in subparagraph (a)5.

2. If no PIN is found to exist for the new applicant, the BVRS shall override the FVRS and the applicant's application record shall become the official registration record. The applicant shall be listed as an active registered voter or a pre-registered voter in the FVRS, whichever is applicable. However, if such voter registered by mail and is a first time voter in the state, and did not include with the application a copy of identification required by Section 97.0535, F.S., the record shall be flagged as requiring special identification to be provided before the voter votes. The only exception to the special identification requirement is if the voter votes absentee and swears or affirms on the absentee ballot certificate that he or she is exempt from providing any photo identification or government-issued documentation as specified in Section 97.0535, F.S.

(c) Blank field. If a new applicant provides no PIN or an incomplete PIN and fails to check or write "None" on the application, the application is incomplete unless the applicant includes a copy of the driver's license, state identification card, or the social security card from which the voter registration official can complete the incomplete PIN. Notice to the applicant shall be provided in accordance with Sections 97.052(6) and 97.073, F.S.

(6) Political party affiliation.

(a) A new applicant or registered voter who selects or affirmatively indicates a change of party affiliation shall be registered in the FVRS:

1. With the requested political party (if the party is registered in Florida) by using the party code assigned to the party by the Division of Elections.

2. Without political party affiliation under the code of "NPA" (No Party Affiliation) if the person:

a. Marks "No party."

b. Fails to designate a specific party affiliation, or leaves the party field blank.

c. Designates a political party that is non-existent, not registered or no longer registered in Florida.

(b) Except as provided in paragraph (c), no change to a registered voter's currently recorded political party affiliation status shall be made unless the registered voter indicates otherwise.

(c) If the voter's registered political party has disbanded or is no longer registered with the State, the voter's record shall be changed to reflect a status of No Party Affiliation. The registered voter shall be sent written notice about the disbanded or unregistered party and the option to select another party for registration. No later than 15 days the notice, the voter shall be sent a new voter information card reflecting the voter's party affiliation status. A coding change or conversion does not constitute a political party change in the FVRS.

(7) Source of application code. The voter registration official must assign a source of application code in the FVRS to each application for new registration or registration record update. The code number corresponds to how an application was directly submitted or who submitted the application directly to the Division of Elections or to the Supervisor of Elections' Office without regard to how or where the application might have been originally obtained, distributed, or completed. The voter registration official shall enter:

(a) Code 1 for any electronic intake application information received from any office that issues driver's license or renewal thereof (e.g., a driver's license examiner's office for the Florida Department of Highway Safety and Motor Vehicles or a tax collector's office that issues driver's licenses) and for any mailed or hand-delivered paper applications received and forwarded from any such office.

(b) Code 2 for any application that arrives through the postal service or other mail delivery service but that does not otherwise fall into any of the other source codes listed under this subsection.

(c) Code 3 for any application received from any office that administers a public assistance program as is defined in Section 97.021, F.S., (for example, food stamp program, Kidcare program, the Medicaid program, the Special Supplemental Food Program for Women, Infants, and Children, and the WAGES program).

(d) Code 4 for any application received from any office that serves persons with disabilities, any office serving students with disabilities at an educational institute, and any center for independent living.

(e) Code 5 for any application received from any armed forces recruitment office.

(f) Code 6 for any application received from a public library.

(g) Code 7 for any application that is completed at or hand-delivered by the applicant or registered voter, or delivered by someone on his or her behalf (other than a third-party voter registration organization), directly to the Supervisor of Election's office in person or through the Supervisor of Election's website.

(h) Code 8 for any application that is submitted directly (by mail or hand-delivery) by a third-party registration organization as defined in Section 97.021, F.S. (for example, an advocacy group or political party), to the Supervisor of Election's office or the Division of Elections, and if applicable, any other unique identification code assigned.

(8) Registration date. The registration date for a new applicant shall be governed by Section 97.053, F.S., and shall be entered in the FVRS accordingly.

(9) Scanned application image. The voter registration official inputting the information from an application for new registration or from an application for an update to the registration record must scan and index the image of the application including the signature into the FVRS no later than five days after inputting the information.

(10) Recording notice activity. Once an application for new registration or registration update is processed, the Supervisor shall record in the FVRS the following type and date of notice:

(a) Notice sent pursuant to Section 97.073, F.S., for failing to complete or check one or more of the mandatory fields required for determining eligibility for new registration (i.e., fields for name, date of birth, Florida legal residence, personal identifying number or writing None", U.S. citizenship, felony conviction, adjudication of mental incapacity, and signature).

(b) Notice sent pursuant to Sections 97.073, F.S., regarding denial of an application on the basis that the applicant is ineligible. An applicant may be ineligible for being a convicted felon without civil rights restored, for being adjudicated mental incapacity without voting rights restored, for not being a United States citizen, for being deceased, for being a fictitious person, for not being of legal age to register or pre-register, or for not listing a Florida legal residence.

(c) Notice sent pursuant to Section 97.053(6), F.S., to a new applicant that the personal identifying number could not be verified.

(d) Voter information card sent pursuant to Section 97.071, 97.073, or 97.1031, F.S., issued upon new registration and for specific changes to voter registration records.

(e) Notice sent pursuant to Section 97.073, F.S., that a duplicate registration form was received (i.e., "duplicate" meaning that there were no data element differences between the application and the existing voter registration record as to name, date of birth, address, Florida driver's license or state identification card number or social security number, or party affiliation). A voter information card may be substituted for a duplicate notice.

(11) Special applicants- victims of violence. If a new applicant or registered voter indicates that he or she is or may be a victim of domestic violence or stalking, such person may be entitled to confidential and exempt registration records pursuant to Florida Attorney General's Address Confidentiality Program (ACP) under the provisions of Sections 741.401-465, F.S., or pursuant to Section 97.0585, F.S., as a victim of stalking. If eligible, such persons are entitled to confidentiality as to their name, telephone number and address, and receive a designated substitute mailing address for purposes of voting by absentee ballot and conducting other activities. The application for such applicant or registered voter shall be processed as follows:

(a) If the new applicant or registered voter seeks confidentiality under the program and is not already certified as a participant or the original certification has expired or been withdrawn, the applicant shall be directed to the Supervisor of Elections in the county of residence. The Supervisor shall provide the applicant or registered voter with contact information for the Attorney General's Office to find out about the process for ACP certification or the submission of a sworn statement of stalking.

(b) If the applicant or registered voter provides proof of authorization of compliance with the Attorney General Office's requirements for name and address confidentiality, the Supervisor shall process manually any new application or update to the registration record. The Supervisor shall ask the person if he or she is registered to vote in another county as address protected pursuant to the Attorney General's Program. The application shall not be entered or scanned into the FVRS in order to ensure that information revealing the personal identifying information and location of the applicant or registered voter are not disclosed to the public.

(c) If the applicant is already a registered voter whose record is in the FVRS, the existing registration record in the FVRS shall be cancelled before processing the record manually in accordance with paragraph (b). The Supervisor must ensure that the registered voter's record including any audit, absentee and voting history records are also removed from the local county registration database. If one or more records exist in FVRS for the voter in different counties, the Supervisor must coordinate with such counties to ensure that similar records are removed from their respective local county registration database.

(d) If the applicant is already a protected registered voter in the Supervisor of Elections' county but indicates that he or she is relocating to another county, the applicant shall be directed to contact directly the Supervisor of Elections in the new county of residence to submit the address update and continue with the address protection. The Supervisor of Elections in the new county of residence shall process the application manually in accordance with this subsection.

(e) The Supervisor of Elections in the county of residence shall forward to the BVRS a copy of the completed and signed application for registration update with the legal address redacted and if applicable, include information as to any other county that the person has stated that he or she is registered as address protected pursuant to the Attorney General's program. The documents shall be enclosed in an envelope marked private and confidential and addressed to: Chief, Bureau of Voter Registration Services/ACP, Department of State, Division of Elections, 500 S. Bronough Street, Tallahassee, Florida 32399.

(f) The BVRS chief shall:

1. Verify (for new registrations only) through the DHSMV or SSA the new applicant's personal identifying number and shall notify the Supervisor of Elections for the voter's county of residence about the outcome of the verification process.

2. Determine if the person is already registered in another county as a protected voter and notify the Supervisor of Elections of the prior county of residence that the person is now registered with another county.

3. Conduct monthly checks to determine if such registered voter remains eligible by cross-checking with data as to death, an adjudication of mental incapacity or a felony conviction, and if a match is found, to report such match to the Supervisor of Elections for the voter's county of residence to process as potentially ineligible in accordance with Section 98.075(7), F.S.

4. Retain the documents in a separate secure storage from other registrations.

(g) Such applicant's or registered voter's PIN shall not be included in any registered voter list, absentee ballot list, tape, label, precinct register made available to the public.

(h) If the new applicant or registered voter does not seek or no longer seeks name and address confidentiality through the Attorney General's Office, or does not provide proof of authorization or eligibility to the confidentiality of his or her name and address through the Attorney General's Office, the application or registration update shall be processed in accordance with subsections (2)-(10) of this rule.

(i) If the chief of the BVRS or the Supervisor of Elections receives information that a registered voter's eligibility for name and address confidentiality through the Attorney General's Office is cancelled, expired without renewal or is otherwise no longer valid, the chief shall notify the Supervisor of Elections or vice versa whichever is applicable. The Supervisor of Elections shall then attempt to contact the voter to determine whether the voter still wants to remain a registered voter and if so, shall then enter such record in the FVRS.

(12) Street Address Index Updates.

(a) Each county Supervisor shall submit electronically, at least monthly, by the 10th of each month, to the Division of Elections to the FVRS an uploaded index of valid residential

street addresses so that the legal addresses on application forms can be verified as valid at the time of registering or updating a registration record. The street address index may be submitted more frequently as street additions or changes occur in the prior month. No monthly update is required if no additions or changes in street addresses have occurred in the prior month.

(b) The update to a street address index shall be submitted either by:

1. Batch method in which the entire existing index is replaced with an updated index.

2. Change method in which a street address index is updated with individual changes as they occur.

Rulemaking Authority 20.10(3), 97.012(1)-(2), 97.052, 98.015(10)-(12), 98.035(5), 98.045(5) FS. Law Implemented 97.052, 97.053, 98.015, 98.035, 98.045, 98.075(2) FS. History—New\_\_\_\_\_.

**DEPARTMENT OF STATE**

**Division of Elections**

RULE NO.: 1S-2.040  
 RULE TITLE: Statewide Uniform Voter Registration Application  
 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. 36, September 9, 2011 issue of the Florida Administrative Weekly.

Based upon written public comments received, in addition to making the effective date of this rule January 1, 2012, which was omitted in the Notice of Proposed Rule, the following changes have been made to the version of the incorporated form, DS-DE 39 compared to the version made available under the Notice of Proposed Rule:

1. The requirements for registration are placed into bullet form.
2. The order of the paragraphs under the instructions for political party affiliation is changed to explain first that Florida is a closed primary election state.
3. The check boxes for whether the application is being used to do an address change, name change, party change or signature update are collapsed to a check box category of "Record Update/Change" which is consistent with paragraph (q) of subsection 97.052(2), Florida Statutes.
4. Field A, relating to the citizenship checkbox, is changed to conform with statutory language under paragraph (r) of subsection 97.052(2), Florida Statutes.
5. Field E, relating to the requisite personal identifying number, is changed to emphasize statutory preference to receive the Florida driver's license number or Florida identification number if issued which is more consistent with the wording in paragraphs (m)-(n) of subsection 97.052(2), Florida Statutes.

6. The field containing race/ethnicity is changed to switch the order of "Multi-racial" and "Other" so that "Other" is listed last.

7. The field eliciting UOCAVA status as relates to a spouse or dependent family member of active duty uniformed services or merchant marine is changed to simply 'family member' of such individual.

8. The field relating to whether help will be needed at the polls is changed from "Check if you will need help with voting" to "I will need assistance with voting".

9. The field relating to soliciting volunteers to become poll workers is changed from "Are you interested in becoming a poll worker?" to "I am interested in becoming a poll worker."

10. The back of the form now includes the current address list information for all 67 county supervisors of elections.

**DEPARTMENT OF EDUCATION**

**State Board of Education**

RULE NO.: 6A-6.03033  
 RULE TITLE: Specialized Instructional Services for Children with Disabilities in the Voluntary Prekindergarten Education Program

**NOTICE OF CORRECTION**

Notice is hereby given that the following correction has been made to the proposed rule development in Vol. 37, No. 43, October 28, 2011 issue of the Florida Administrative Weekly.

The date and conference codes in the initial notice of rule development are corrected as shown below.

DATE AND TIME: Monday, November 28, 2011, 10:00 a.m. – 12:00 Noon (EST) and 2:00 p.m. – 4:00 p.m. (EST).

PLACE: Specialized Instructional Services for Children with Disabilities in the VPK Education Program Rule Development Workshop Webinars: 10:00 a.m. – 12:00 Noon, Meeting Number: 599 502 304 (meeting password not required). You may join the meeting online at: <https://suncom.webex.com/suncom/j.php?ED=171804542&UID=1307961397&RT=MIMxMQ%3D%3D>, Call-in toll-free number: 1(888)808-6959 and Conference Code: 245 944 9.

2:00 p.m. – 4:00 p.m., Meeting Number: 594 299 095 (meeting password not required). You may join the meeting online at: <https://suncom.webex.com/suncom/j.php?ED=171804852&UID=1307966347&RT=MIMxMQ%3D%3D>, Call-in toll-free number: 1(888)808-6959 and Conference Code: 245 944 9.

**DEPARTMENT OF EDUCATION**

**State Board of Education**

RULE NO.: 6A-10.0315  
 RULE TITLE: College Preparatory Testing, Placement, and Instruction

**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. 41, October 14, 2011 issue of the Florida Administrative Weekly.

Subsections (2) and (3) are amended to read:

(2) Students who present college ready scores on either the College Board’s Accuplacer or SAT-I or the American College Testing Program’s Enhanced ACT test ~~that meet or exceed the scores shown below~~, are exempted from taking the Florida Postsecondary Education Readiness Test. The following scores meet college level competency:

(3) School districts must administer the Florida Postsecondary Education Readiness Test or an approved alternative identified in subsection (2) of this rule to high school students who meet the criteria established in Section 1008.30(3), Florida Statutes. High school students are exempt from payment for tests administered pursuant to Section 1008.30(3), Florida Statutes. Students who do not meet or exceed the scores established in subsections (1) and (2) of this rule must complete postsecondary preparatory instruction prior to high school graduation. Students who complete the postsecondary preparatory instruction required in Section 1008.30(3), Florida Statutes, will have completed an alternative remediation opportunity. Completion of alternative remediation in high school does not satisfy the requirement for demonstrating college readiness or completing college preparatory instruction. A student will be required to retest after alternative remediation and meet or exceed the scores established in subsection (1) or (2) of this rule to avoid required enrollment in college preparatory communication and computation instruction in accordance with subsection (1) of this rule.

**DEPARTMENT OF EDUCATION**

**State Board of Education**

RULE NO.:                   RULE TITLE:  
6A-25.010                   Scope of Vocational Rehabilitation Services

**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. 41, October 14, 2011 issue of the Florida Administrative Weekly.

Subsection (2) has been amended to read:

(2) Comparable services and benefits do not include awards and scholarships based on merit that are granted without restrictions as to their use by the individual, ~~but do include qualified tuition programs as defined in 26 U.S.C. §529 and other programs similar in nature and purpose.~~

**STATE BOARD OF ADMINISTRATION**

**Florida Prepaid College Board**

RULE NO.:                   RULE TITLE:  
19B-4.001                   Application

**NOTICE OF CORRECTION**

Notice is hereby given that the following correction has been made to the proposed rule in Vol. 37, No. 41, October 14, 2011 issue of the Florida Administrative Weekly.

The following statement of legislative ratification was omitted and should be added to the Notice:

Based upon the following, the Agency has determined that the proposed rule will not require legislative ratification pursuant to Section 120.541(3), F.S., or other applicable statutes: 1) no requirement for SERC was triggered under Section 120.541(1), F.S., and 2) based on past experiences with the Florida Prepaid College Board and rules of this nature, the adverse impact or regulatory cost, if any, do not exceed nor would be expected to exceed any one of the economic analysis criteria set forth in Section 120.541(2)(a), F.S.

**STATE BOARD OF ADMINISTRATION**

**Florida Prepaid College Board**

RULE NO.:                   RULE TITLE:  
19B-16.002                   Application for Participation in the Program

**NOTICE OF CORRECTION**

Notice is hereby given that the following correction has been made to the proposed rule in Vol. 37, No. 41, October 14, 2011 issue of the Florida Administrative Weekly.

The following statement of legislative ratification was omitted and should be added to the Notice:

Based upon the following, the Agency has determined that the proposed rule will not require legislative ratification pursuant to Section 120.541(3), F.S., or other applicable statutes: 1) no requirement for SERC was triggered under Section 120.541(1), F.S., and 2) based on past experiences with the Florida Prepaid College Board and rules of this nature, the adverse impact or regulatory cost, if any, do not exceed nor would be expected to exceed any one of the economic analysis criteria set forth in Section 120.541(2)(a), F.S.

**WATER MANAGEMENT DISTRICTS**

**St. Johns River Water Management District**

RULE NO.:                   RULE TITLE:  
40C-3.035                   Agreements

**NOTICE OF CORRECTION**

Notice is hereby given that the following correction has been made to the proposed rule in Vol. 37, No. 41, October 14, 2011 issue of the Florida Administrative Weekly.

**SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS AND LEGISLATIVE RATIFICATION:** The District has determined that this amendment will not have an adverse impact on small business

and is not likely to directly or indirectly increase regulatory costs by more than \$200,000 within one year of taking effect. A SERC has not been prepared by the District. Based on the fact that the rule amendment simply facilitates the electronic sharing of information between the parties, clarifies the responsibilities of the parties, and increases standardization among the water well delegation agreements, the District has determined that no SERC is required and that no legislative ratification pursuant to subsection 120.541(3), F.S. is required. Any person who wishes to provide information regarding the statement of estimated regulatory costs or to provide a proposal for a lower cost regulatory alternative must do so in writing within 21 days of this notice.

**DEPARTMENT OF MANAGEMENT SERVICES**

**Agency for Workforce Innovation**

RULE NO.:                   RULE TITLE:  
60BB-3.0155               Payment of Benefits  
NOTICE OF CORRECTION

Notice is hereby given that the following correction has been made to the proposed rule in Vol. 37, No. 40, October 7, 2011 issue of the Florida Administrative Weekly. The notice of proposed rule did not state what information was relied upon in determining that the proposed rule is not expected to require legislative ratification. The information expressly relied upon is: the nature of the rule and the preliminary analysis conducted to determine whether a SERC was required.

**DEPARTMENT OF MANAGEMENT SERVICES**

**Agency for Workforce Innovation**

RULE NO.:                   RULE TITLE:  
60BB-3.029               Public Use Forms  
NOTICE OF CORRECTION

Notice is hereby given that the following correction has been made to the proposed rule in Vol. 37, No. 40, October 7, 2011 issue of the Florida Administrative Weekly. The notice of proposed rule did not state what information was relied upon in determining that the proposed rule is not expected to require legislative ratification. The information expressly relied upon is: the nature of the rule and the preliminary analysis conducted to determine whether a SERC was required.

**DEPARTMENT OF MANAGEMENT SERVICES**

**E911 Board**

RULE NO.:                   RULE TITLE:  
60FF1-5.002               Rural County Grants  
NOTICE OF CORRECTION

Notice is hereby given that the following correction has been made to the proposed rule in Vol. 37, No. 40, October 7, 2011 issue of the Florida Administrative Weekly.

The correction is in response to comments submitted by the Joint Administrative Procedures Committee in a letters dated October 7, 2011 and October 12, 2011. The correction is as follows:

The SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS AND LEGISLATIVE RATIFICATION shall read as: During discussion of this rule at its Board meeting, the Board, based upon the expertise and experience of its members, determined that a Statement of Estimated Regulatory Cost (SERC) was not necessary. No person or interested party submitted additional information regarding the economic impact at that time. The Board has determined that this will not have an adverse impact on small business, or likely increase regulatory costs in excess of \$200,000 in the aggregate within 1 year after implementation of the rule. These rule amendments will not require ratification by the Legislature.

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 PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Ryan Butler, Special Support Services Manager, E911 Board, 4030 Esplanade Way, Suite 160, Tallahassee, Florida 32399-0950

**DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION**

**Construction Industry Licensing Board**

RULE NO.:                   RULE TITLE:  
61G4-16.009               Examination and Reexamination  
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. 38, September 23, 2011 issue of the Florida Administrative Weekly.

The correction is in response to comments submitted by the Joint Administrative Procedures Committee in a letter dated October 11, 2011. The correction is as follows:

The SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS AND LEGISLATIVE RATIFICATION shall read as: During discussion of this rule at its Board meeting, the Board, based upon the expertise and experience of its members, determined that a Statement of Estimated Regulatory Cost (SERC) was not necessary. No person or interested party submitted additional information regarding the economic impact at that time. The Board has determined that this will not have an adverse impact on small business, or likely increase regulatory costs in excess of \$200,000 in the aggregate within 1 year after implementation of the rule. These rule amendments will not require ratification by the Legislature.



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 DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW shall read as: January 7, 2011.

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

**DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION**

**Board of Landscape Architecture**

RULE NO.: 61G10-15.005  
RULE TITLE: Responsible Supervision Control Over Landscape Architectural Practices in the Landscape Architect's Office

**NOTICE OF CORRECTION**

Notice is hereby given that the following correction has been made to the proposed rule in Vol. 37, No. 34, August 26, 2011 issue of the Florida Administrative Weekly.

The SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS AND LEGISLATIVE RATIFICATION shall read as "During discussion of the economic impact of this rule at its Board meeting, the Board, based upon the expertise and experience of its members, determined that a Statement of Estimated Regulatory Cost (SERC) was not necessary and that these rule amendments will not require ratification by the Legislature. No person or interested party submitted additional information regarding the economic impact at that time. The Board has determined that this will not have an adverse impact on small business, or likely increase regulatory costs in excess of \$200,000 in the aggregate within 1 year after implementation of the rule.

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 PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Juanita Chastain, Executive Director, Board of Landscape Architecture, 1940 North Monroe Street, Tallahassee, Florida 32399-0750

**DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION**

**Building Code Administrators and Inspectors Board**

RULE NO.: 61G19-5.002  
RULE TITLE: Disciplinary Guidelines

**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. 41, October 14, 2011 issue of the Florida Administrative Weekly.

The changes are as follows:

61G19-5.002 Disciplinary Guidelines.

(1) through (2) No change.

VIOLATION RECOMMENDED RANGE OF PENALTY

(a) through (v) No change.  
(w) Failing to report in writing to the Board within thirty (30) days a conviction, guilty verdict, or plea of nolo contendere or guilty to, regardless of adjudication, a crime in any jurisdiction.

(w)1. For late reporting of a conviction, guilty verdict or plea, a \$50.00 citation.

(w)2. For failure to report a conviction, guilty verdict or plea, a \$500.00 citation.

(w)3. For failure to report a crime directly related to building code administration or inspection, open a new case pursuant to paragraph (2)(e) and failure to report shall be considered an aggravating factor.

(3) through (5) No change.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Robyn Barineau, Executive Director, Building Code Administrators and Inspectors Board, 1940 North Monroe Street, Tallahassee, Florida 32399-0750

**DEPARTMENT OF HEALTH**

**Board of Clinical Laboratory Personnel**

RULE NO.: 64B3-5.007  
RULE TITLE: Director; Limitations and Qualifications

**NOTICE OF WITHDRAWAL**

Notice is hereby given that the above rule, as noticed in Vol. 36, No. 52, December 30, 2010 issue of the Florida Administrative Weekly has been withdrawn.

**DEPARTMENT OF HEALTH**

**Board of Dentistry**

RULE NO.: 64B5-16.002  
RULE TITLE: Required Training

**NOTICE OF CORRECTION**

Notice is hereby given that the following correction has been made to the proposed rule in Vol. 37, No. 32, August 12, 2011 issue of the Florida Administrative Weekly.

The SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS AND LEGISLATIVE RATIFICATION shall read as "During discussion of the economic impact of this rule at its Board meeting, the Board, based upon the expertise and experience of its members, determined that a Statement of Estimated Regulatory Cost (SERC) was not necessary and that these rule amendments will

not require ratification by the Legislature. No person or interested party submitted additional information regarding the economic impact at that time. The Board has determined that this will not have an adverse impact on small business, or likely increase regulatory costs in excess of \$200,000 in the aggregate within 1 year after implementation of the rule.

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

**DEPARTMENT OF CHILDREN AND FAMILY SERVICES**

**Agency for Persons with Disabilities**

RULE NOS.:	RULE TITLES:
65G-4.014	Eligibility for Agency Services – Definitions
65G-4.015	Eligibility Criteria
65G-4.016	Application Process
65G-4.017	Establishing Eligibility

**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. 11, March 18, 2011 issue of the Florida Administrative Weekly.

65G-4.014 Eligibility for Agency Services – Definitions.

(1) Autism means a condition which meets the requirements of Section 393.063, F.S., that the condition is:

(a) Pervasive, meaning always present and without interruption;

(b) Neurologically based, meaning that the condition is not the result of physical impairment;

(c) A developmental disability with age of onset during infancy or childhood;

(d) With extended duration, meaning that the condition reasonably can be expected to continue indefinitely into the future;

(e) Causes severe learning disorders resulting in both severe communication disorders affecting both verbal and nonverbal skills, and severe behavior disorders. Autism is characterized by an individual evidencing at least six of the following twelve features from the following subparts 1 and 2:

1. Severe communication disorders, which may include:

i. A delay in, or total lack of, the development of spoken language (not accompanied by an attempt to compensate through alternative modes of communication such as gesture or mime);

ii. Stereotyped and repetitive use of language or idiosyncratic language;

iii. For those applicants with speech, marked impairment in the use of multiple nonverbal behaviors such as eye-to-eye gaze, facial expression, body postures, and gestures to regulate social interaction;

iv. Failure to develop peer relationships appropriate to developmental level;

v. A lack of spontaneous seeking to share enjoyment, interests, or achievements with other people (e.g., by a lack of showing, bringing, pointing out objects of interest, or achievements to others);

vi. Lack of social or emotional reciprocity;

vii. Marked impairment in the ability to initiate or sustain a conversation with others in individuals with adequate speech; or

viii. Impaired imaginative ability evidenced by a lack of varied, spontaneous make-believe play or social imitative play appropriate to developmental level.

2. Severe behavior disorders, which are restricted, repetitive and stereotyped patterns of behavior, interests, and activities which may include:

ix. Encompassing preoccupation with one or more stereotyped and restricted patterns of interest that is abnormal either in intensity or focus;

x. Apparently inflexible adherence to specific, nonfunctional routines or rituals;

xi. Stereotyped and repetitive motor mannerisms (e.g., hand or finger flapping or twisting, or complex whole-body movements); or

xii. Persistent preoccupation with parts of objects.

(2) Cerebral Palsy – means a group of disabling symptoms of extended duration that result from damage to the developing brain during the prenatal period and characterized by paralysis, spasticity, or abnormal control of movement or posture, such as poor coordination or lack of balance, which is manifest prior to three years of age. For purposes of the rule, cerebral palsy also means the presence of other significant motor dysfunction appearing prior to age 18 due to perinatal or external events such as anoxia, oxygen deprivation, or traumatic brain injury. Excluded from this definition is motor dysfunction caused by medical events, including stroke or progressive diseases such as muscular dystrophy. The impairment from cerebral palsy must constitute a substantial handicap which is reasonably expected to continue indefinitely.

(3) Mental Retardation or Intellectual Disability – is evidenced by the concurrent existence of:

(a) Significantly subaverage general intellectual functioning evidenced by an Intelligence Quotient (IQ) two or more standard deviations below the mean on an individually administered standardized intelligence test, and

(b) Significant deficits in adaptive functioning in one or more of the following areas:

1. Communication skills.
2. Self-care, home living.
3. Social and interpersonal skills.
4. Use of community resources and self-direction.
5. Functional academic skills.
6. Work, leisure, health and safety awareness and skills.

(c) Which are manifested prior to age 18; and

(d) Constitute a substantial handicap which is reasonably expected to continue indefinitely.

(4) Prader-Willi Syndrome – means a genetic disorder which is most often associated with a random deletion of chromosome 15. Commonly associated characteristics include insatiable appetite, chronic overeating, hypotonia, short stature, obesity, and behavioral issues. Individuals diagnosed with Prader-Willi syndrome generally have mental retardation; however, an individual with Prader-Willi syndrome can be determined as eligible for services without an accompanying diagnosis of mental retardation.

(5) Spina Bifida – For the purposes of agency eligibility, spina bifida refers to a confirmed diagnosis of spina bifida cystica or myelomeningocele.

(6) Down Syndrome – means a condition caused by the presence of extra chromosomal material on chromosome 21. This disorder is often associated with impairment in cognitive ability, characteristic physical growth and features, and congenital medical conditions.

(7) Eligibility Rules – Rules 65G-4.014 through 65G-4.017, Florida Administrative Code, inclusive, which apply to eligibility determinations for services provided through the Agency for Persons with Disabilities for individuals with developmental disabilities.

(8) DD Waiver – Home and Community-Based Services (HCBS) waiver authorized by 42 U.S.C. 1396n(c)(1) of the federal Social Security Act and Section 409.906, F.S., that provides a package of Medicaid-funded home and community-based supports and services to eligible persons with developmental disabilities who live at home or in a home-like setting.

(9) Agency Services – home and community based supports and services to eligible persons funded through general revenue allocations or sources other than the DD Waiver.

Rulemaking Authority 393.065, 393.501, 393.063 FS. Law Implemented 393.065 FS. History–New \_\_\_\_\_.

65G-4.015 Eligibility Criteria.

In order to be determined eligible for agency services the applicant must:

- (1) Be at least three years of age.

(2) Be a resident of and domiciled in the state of Florida in accordance with Sections 222.17(1) and (2), F.S. Domicile may not be established in Florida by a minor who has no parent domiciled in Florida, or by a minor who has no legal guardian domiciled in Florida, or by any alien not classified as a resident alien. Dependents of active duty military personnel stationed in the state of Florida are exempt from residency and domicile requirements.

(3) Have a confirmed diagnosis of one of the following developmental disabilities as defined in these rules, Rules 65G-4.014, 4.015, 4.016 and 4.017, F.A.C.:

- (a) Autism.
- (b) Cerebral palsy.
- (c) Mental retardation or intellectual disability.
- (d) Prader-Willi syndrome.
- (e) Spina Bifida.
- (f) Down Syndrome, or

(g) Children between 3 and 5 years of age who are at high risk of later diagnosis of one of the disabilities listed above. Such high-risk children shall not be placed on the waiting list for waiver services until a confirmed diagnosis of a qualifying disability is given.

(4) DD Waiver services are only available (conditioned upon the wait list) to persons who meet the requirements of 42 CFR § 435.217(b)(1) for receiving home and community-based services. It is mandatory that the determination is made that without DD Waiver services these individuals would otherwise require the level of care furnished in a hospital, nursing home, or an Intermediate Care Facility for People with Intellectual Disabilities (referred to in the CFR as an “ICF/MR”).

Rulemaking Authority 393.065, 393.501, 393.063 FS. Law Implemented 393.065 FS. History–New \_\_\_\_\_.

65G-4.016 Application Process.

(1) Application for services from the agency shall be made by submitting an application by hand delivery, U.S. Postal Service, or facsimile to the agency office in the service area where the applicant resides. The application for services is available on the agency website at [www.APD.myflorida.com](http://www.APD.myflorida.com), <http://www.apd.myflorida.com/customers/application/> or by contacting the agency. The application is available in English and Spanish and is hereby incorporated by reference.

(2) Upon receipt of a completed, signed, and dated Application for Services, the area agency staff shall review the application and supporting documentation and, within 45 days for children under the age of 6 and 60 days for individuals 6 years of age and older, shall notify the applicant of the final determination of eligibility for agency services. If requests for collateral information or additional evaluations are necessary to determine eligibility, the time may be extended for no more than an additional ninety (90) days.

(3) If an applicant is unable to produce an existing evaluation that establishes eligibility or if there is concern that the information provided is inaccurate, incorrect, or incomplete, the agency area office will be responsible for obtaining an evaluation to establish eligibility. Professional diagnoses under Rule 65G-4.017, F.A.C., must document all criteria for eligibility as set forth in Rules 65G-4.014-017, F.A.C. The evaluation process includes only those assessments necessary to determine eligibility that were administered by a person qualified to administer the instrument(s).

(4) When the eligibility determination is complete, the agency area office shall notify the applicant in writing within five (5) business days of the decision. If the applicant is determined ineligible for agency services, the agency area office shall notify the applicant of the right to appeal the decision in accordance with Chapter 120, F.S.

(5) If the applicant is determined to be ineligible to receive services from the agency, the agency area office shall offer suggestions regarding other programs, agencies, or services for which the applicant may be eligible.

(6) If a category of covered conditions in this rule is not also covered by the state's Medicaid developmental disabilities waiver (DD waiver) at the time an individual is determined to be eligible, those individuals will be placed on the waiting list and may be provided services funded through general revenue allocations or sources other than the DD Waiver.

Rulemaking Authority 393.065, 393.501, 393.063 FS. Law Implemented 393.065 FS. History—New \_\_\_\_\_.

#### 65G-4.017 Establishing Eligibility.

(1) Establishing Eligibility – Autism. A diagnosis of autism, as defined by Rule 65G-4.014, F.A.C., may only be made by one or more of the following who has specific training and experience in making such diagnosis:

(a) A Florida-licensed psychiatrist.

(b) A Florida-licensed psychologist.

(c) A board-certified pediatric neurologist who is qualified by training and experience to make a diagnosis of autism.

(d) A board-certified developmental pediatrician.

(e) Collateral information received from another state may be accepted if the evaluator is licensed through the same credentials required for licensure in Florida for the professions listed in paragraph (1)(a) above.

(2) Establishing Eligibility – Cerebral Palsy. Diagnosis is confirmed by written documentation from one or more of the following:

(a) A medical doctor;

(b) A doctor of osteopathy; or

(c) Medical records documenting a diagnosis of cerebral palsy before the age of 18.

(3) Establishing Eligibility – Mental Retardation or Intellectual Disability. To establish that an individual has mental retardation the following criteria shall be applied:

(a) A single test or subtest should not be used alone to determine eligibility. If a person has significantly different (statistically defined) scores on different scales of a test or tests, or a great deal of variability on subtest scores of an IQ test, the full-scale score may not indicate mental retardation and should not be relied on as a valid score. In that instance, closer scrutiny is required to make an appropriate differential diagnosis. This may include review of school records, school placement, achievement scores, medical records, medication history, behavior during testing and the psychosocial situation at the time of testing. Closer scrutiny must also be required when there is a great deal of variability between IQ scores on different IQ tests or different administrations of the same IQ test. Nothing here is intended to preclude clinical judgment from appropriately determining that a single full-scale IQ score of 70 or below, or two or more standard deviations below the mean, on an individually administered intelligence test is sufficient to establish eligibility.

(b) The performance measures for this category of adaptive functioning deficits must be validated by the professional judgment of a psychologist who is experienced in working with people who have retardation, who has specific training and validation in the assessment instrument that is used, and who is one of the following:

1. A Florida-licensed psychologist.

2. A Florida-licensed school psychologist.

3. A certified school psychologist.

(c) Any standardized test may be submitted as proof. However, the applicant must demonstrate that any test not presumptively accepted by the agency is valid. The following are presumptively accepted standardized tests of intelligence to establish eligibility for mental retardation:

1. Stanford-Binet Intelligence Test (all ages).

2. Wechsler Preschool and Primary Scale of Intelligence (under six years of age).

3. Differential Ability Scales – Preschool Edition (under six years of age).

4. Wechsler Intelligence Scale for Children (WISC) (children up to 15 years, 11 months).

5. Differential Ability Scales (children up to 15 years, 11 months).

6. Wechsler Adult Intelligence Scale (WAIS).

7. Test of Nonverbal Intelligence-3 (TONI-3).

8. Comprehensive Test of Nonverbal Intelligence-2 (C-TONI 2).

9. Universal Nonverbal Intelligence Test (UNIT).

10. Leiter International Performance Scale-Revised (Leiter-R).

(d) The following tests of adaptive functioning are presumptively accepted in the determination:

1. Vineland Adaptive Behavior Scales.

2. AAMR Adaptive Behavior Scale.

- 3. Adaptive Behavior Assessment System (ABAS).
- 4. Adaptive Behavior Evaluation Scale (ABES).
- 5. Scales of Independent Behavior – Revised

(e) In all cases, assessments or evaluations for eligibility should be obtained from appropriately licensed professionals with experience and training in the instruments and population for whom eligibility is to be determined.

(4) Establishing Eligibility – Prader-Willi Syndrome. Diagnosis is confirmed by written documentation from one or more of the following:

- 1. A medical doctor;
- 2. A doctor of osteopathy; or
- 3. Medical records that document a diagnosis of Prader-Willi syndrome before the age of 18.

(5) Establishing Eligibility – Spina Bifida. Diagnosis is confirmed by written documentation from one or more of the following:

- a. A medical doctor;
- b. A doctor of osteopathy; or
- c. Medical records that document a diagnosis of spina bifida cystica or myelomeningocele before the age of 18.

(6) Establishing Eligibility – Down Syndrome. Evidence under this category requires medical records documenting a chromosome analysis (also referred to as a karyotype) finding the individual has an extra genetic material on their number 21 chromosome.

(7) Establishing Eligibility – High-Risk Children, 3 to 5 years of age. Evidence under this category requires a determination by an APD area office that a medical diagnosis of developmental delay evidenced by the child indicates a high probability that the child is likely to have an eventual diagnosis of a qualifying condition under Rule 65G-4.014, F.A.C., if early intervention services are not provided, or the child has one or more physical or genetic anomalies associated with a developmental disability, such as:

- a. Genetic or chromosomal disorders (such as Down syndrome or Rett syndrome);
- b. Metabolic disorders (such as phenylketonuria);
- c. Congenital malformations (such as microcephaly or hydrocephaly);
- d. Neurological abnormalities and insults;
- e. Congenital and acquired infectious diseases;
- f. Chronic or catastrophic illnesses or injuries;
- g. A parent or guardian with developmental disabilities who requires assistance in meeting the child’s developmental needs; or
- h. Other conditions or genetic disorders generally associated with developmental disabilities, such as tuberous sclerosis, congenital syphilis, fetal alcohol syndrome, or maternal rubella, as documented by a physician.

i. If a child between three and five years of age already has been determined to have a developmental disability in one of the five categories identified in Chapter 393, F.S., that child shall be eligible for services from the agency under the appropriate diagnosis and shall be added to the waiting list.

j. If a child served under the category of high risk does not have a confirmed diagnosis by his or her fifth birthday, they shall be given a notice of case closure and the case will be closed at the agency. The agency shall make the child’s parent or guardian aware of appropriate agencies, programs or school programs which the agency is aware of which might be able to assist the child.

Rulemaking Authority 393.065, 393.501, 393.063 FS. Law Implemented 393.065 FS. History–New \_\_\_\_\_.

**DEPARTMENT OF FINANCIAL SERVICES**

**Division of State Fire Marshal**

RULE NO.: 69A-47.011                      RULE TITLE: Adoption of the Florida Elevator Safety Code

**NOTICE OF WITHDRAWAL**

Notice is hereby given that the above rule, as noticed in Vol. 36, No. 43, October 29, 2010 issue of the Florida Administrative Weekly has been withdrawn.

**DEPARTMENT OF FINANCIAL SERVICES**

**Division of Insurance Agents and Agency Services**

RULE NO.: 69B-162.011                      RULE TITLE: Suitability and Disclosure in Annuity Contracts – Forms Required

**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. 29, July 22, 2011 issue of the Florida Administrative Weekly.

Also, in compliance with the requirements of Chapter 2011-255, Laws of Florida, the Summary of Statement of Estimated Regulatory Costs is changed to read as follows: The Department has determined that the proposed rule will directly or indirectly increase regulatory costs, including transactional costs, in excess of \$1 million in the aggregate within 5 years after the implementation of the rule. Accordingly, the Department has determined that the proposed rule will require legislative ratification.

69B-162.011 Suitability and Disclosure in Annuity Contracts – Forms Required.

- (1) No change.
- (2) Annuity Cover Pages.

(a) Any annuity policy must contain a cover page that is a part of and attached to the annuity policy. The cover page of an annuity policy is a page separate from and prior to the first page of the policy. Information required by the Florida

Insurance Code or rules promulgated pursuant thereto to appear on the first page of an annuity policy shall not appear on the cover page of the annuity policy unless expressly required by statute or rule to also appear on the cover page of the annuity policy.

(b) through (c) No change.

(d) With the exception of a company logo, the remainder of the type-face on the cover page shall include only the following information as applicable in a minimum of 12-point type:

1. Information for the purchaser on the unconditional refund period as follows:

a. For purchasers age 64 and under, as well as for "accredited investors" of any age: you may return your contract for up to 14 days after you receive it. The term "accredited investor" is defined in Section 627.4554(3)(b), F.S.

b. For purchasers age 65 and over, except for "accredited investors": you may return your contract for up to 21 days after you receive it. "Accredited investors," as defined in Section 627.4554(3)(b), F.S., are limited to a 14 day unconditional refund period.

c. through g. No change.

h. On the cover page of any variable annuity policy, include a statement that, "A prospectus, which may include a policy summary, must be given to you."

2. through 4. No change

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

~~(4)(3)~~ Duties of Insurers and Insurance Agents.

(a) through (g) No change.

(5) Any insurer or agent that sells or markets an annuity policy affected by this rule shall have up to 120 days from the effective date of this rule, as amended, to bring documents related to new sales into compliance with the provisions of this rule.

Rulemaking Authority 624.308(1), ~~626.016~~, 627.4554(10)(9) FS. Law Implemented ~~624.307(1)~~, 624.308, ~~626.99(4)~~, 627.4554 FS. History–New 12-25-09, Amended \_\_\_\_\_.

The remainder of the rule reads as previously published.

## Section IV Emergency Rules

### DEPARTMENT OF CITRUS

RULE NO.: 20ER11-1  
RULE TITLE: Oranges: 2011-2012 Anhydrous Acid Maturity Standards

SPECIFIC REASONS FOR FINDING AN IMMEDIATE DANGER TO THE PUBLIC HEALTH, SAFETY OR WELFARE: Section 120.54(4)(b), Florida Statutes, states that

those rules pertaining to perishable agricultural commodities shall be included in the definition of rules relating to the public health, safety, or welfare.

Due to early maturity and adverse climactic conditions through periods of this growing season significant amounts of the Florida orange crop in the 2011-2012 season will have an acid content below the 0.4 minimum established in Section 601.19, Florida Statutes. Strict enforcement of the anhydrous acid content requirements, which were adopted largely to control abuse of plant growth regulators which are no longer in use, could cause economic waste by allowing good and safe food to be ruled immature.

After taking testimony and discussing the matter at a public meeting and hearing in Bartow, Florida on October 19, 2011, the Florida Citrus Commission found that there exist unusual growing conditions which could cause a substantial portion of the orange crop to fail minimum acid requirements. They unanimously voted to adopt Emergency Rule 20ER11-1, adjusting the percentage of anhydrous citric acid requirement for oranges for fresh and processed use from .40 to .36, from October 21, 2011 up to and including November 30, 2011.

REASON FOR CONCLUDING THAT THE PROCEDURE IS FAIR UNDER THE CIRCUMSTANCES: Adequate notice procedures were used by the Department of Citrus to inform the public and the Florida citrus industry of the pending adoption of Emergency Rule 20ER11-1 adjusting the percentage of anhydrous citric acid requirements for oranges, in that notice was made via email of the meeting notice on October 17, 2011 to members of the Florida Citrus Commission, all industry organizations, the Florida Press Corps and other interested persons.

SUMMARY: Emergency Rule 20ER11-1 adjusts the percentage of anhydrous citric acid requirement for oranges from .40 to .36 from October 21, 2011 up to and including November 30, 2011.

THE PERSON TO BE CONTACTED REGARDING THE EMERGENCY RULE IS: Alice P. Wiggins, License & Regulation Specialist, Legal Department, Florida Department of Citrus, P. O. Box 9010, Bartow, Florida 33831-9010 or awiggins@citrus.state.fl.us

THE FULL TEXT OF THE EMERGENCY RULE IS:

20ER11-1 (20-13.0011) Oranges: 2011-2012 ~~2004-2005~~ Anhydrous Acid Maturity Standards.

(1) During the period beginning October 21, 2011 ~~October 29, 2004~~ up to and including November 30, 2011 ~~July 31, 2005~~ oranges shall be deemed mature when the juice sample contains not less than .36 percent of anhydrous citric acid.

(2) No change.

Rulemaking Specific Authority 601.10(1),(7), 601.11, 601.19 FS. Law Implemented 601.111, 601.19 FS. History–New 3-14-93, Amended 2-12-95, 1-17-96, 5-1-02, 2-19-03, 2-24-04, 3-22-05, 10-21-11.