

a) The reclaimed water rate or rates the reuse utility would charge the applicant (e.g., the cost per 1000 gallons) and any other periodic fixed or minimum charges for use of reclaimed water by the applicant.

b) Any other one-time charges for the connection to the reuse.

c) Whether the reuse utility helps fund potential reclaimed customers' costs to connect to the reclaimed line or convert its operation to use reclaimed water.

4) The water quality parameters of the reclaimed water for the constituents that the applicant identifies as pertinent to the intended use.

5) Any additional information the reuse utility thinks the applicant should consider in evaluating the economic, environmental, or technical feasibility of its using reclaimed water, including any reclaimed water availability charges the reuse utility would impose if the applicant chose not to connect to the reclaimed water system.

If the reuse utility fails to respond or does not provide the information within 30 days after receipt of the applicant's request, the applicant shall provide the District a copy of the applicant's written request and a statement that the utility failed to provide the requested information. If the reuse utility provides a partial response, the applicant shall also provide that to the District.

Rulemaking Authority 1012.34 FS. Law Implemented 1012.34 FS. History--New _____.

Section II Proposed Rules

DEPARTMENT OF HEALTH

Division of Medical Quality Assurance

| RULE NOS.: | RULE TITLES: |
|------------|--|
| 64B-1.003 | Examination Administration |
| 64B-1.005 | Special Testing Accommodations |
| 64B-1.008 | Grading of Examinations; Grade Notification |
| 64B-1.011 | Requirements and Standards of a National Examination |
| 64B-1.013 | Post-Examination Review |
| 64B-1.016 | Fees: Examination and Post-Examination Review |

PURPOSE AND EFFECT: To establish examination fees and procedures for the development, administration, security, grading, and review, of examinations used to measure the minimum competency of applicants for health care practitioner licensure.

SUMMARY: This chapter provides requirements for licensure examinations used to measure minimum competency of healthcare practitioners.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS AND LEGISLATIVE RATIFICATION:

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.

The Agency has determined that the proposed rule is not expected to require legislative ratification based on the statement of estimated regulatory costs or if no SERC is required, the information expressly relied upon and described herein: This rulemaking will not have an adverse impact or regulatory costs in excess of \$1 million within five years as established in Section 120.541(2)(a)1.2. and 3., F.S.

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: 456.004(5), (10), 456.017(1)(a), (b), (c), (d), (f), 456.017(2), (6), (7) FS.

LAW IMPLEMENTED: 456.004(10), 456.017(1), (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: Jennifer Wenhold, 4052 Bald Cypress Way, Bin #C-90, Tallahassee, Florida 32399-3255

THE FULL TEXT OF THE PROPOSED RULE IS:

64B-1.003 Examination Administration.

Unless the national examination requires a different set of administration procedures, the following procedures shall be followed for any examination administered by the department or its contract provider.

(1) All examinations will be administered in accordance with the department's "General Administration Manual for Examinations," ~~2011~~ ~~2009~~, incorporated herein by reference, and can be obtained from the Division of Medical Quality Assurance, Bureau of Operations, Practitioner Reporting and Examination Testing Services, 4052 Bald Cypress Way, Bin C-90, Tallahassee, Florida 32399-3290.

(2) through (9) No change.

Rulemaking Authority 456.004(5), 456.017(1)(a), (d), (f) FS. Law Implemented 456.017(1) FS. History--New 9-7-98, Amended 7-20-03, 3-26-07, 4-7-08, 9-30-09, _____.

64B-1.005 Special Testing Accommodations.

(1) through (2) No change.

(3)(a) Candidates requesting special testing accommodation due to a disability shall file a request for special testing accommodation no later than sixty (60) days

prior to the first day of the examination for which special testing accommodation is requested on form DH-MQA 4000, ~~2/2011 6/08~~, Application For Candidates Requesting Special Testing Accommodation in Accordance with the Americans with Disabilities Act, for which special testing accommodation is requested. Form DH-MQA 4000, ~~6/08~~, is hereby incorporated by reference, and can be obtained on the Testing Services website at: <http://doh.state.fl.us/mqa/Exam/index.htm> ~~<http://www.doh.state.fl.us/mqa/exam/speectest.htm>~~ or from the Division of Medical Quality Assurance, Bureau of Operations, Practitioner Reporting and Examination Testing Services, 4052 Bald Cypress Way, Bin C-90, Tallahassee, Florida 32399-3290. If a candidate becomes disabled after the sixty-day deadline has passed and that candidate has not requested special accommodation, the department will provide any such requested accommodation that can be made available without posing undue burden or jeopardizing the security and integrity of the examination. However, in no event will accommodation be provided to exam candidates requesting special accommodation ten (10) days or less, before the examination.

(b) In addition to form DH-MQA 4000, ~~2/2011 6/08~~, the candidate shall provide the department with documentation of their disability completed by a practitioner licensed pursuant to Chapter 490, (Psychology), Chapter 458 (Medical Practice), Chapter 459 (Osteopathy), Chapter 461 (Podiatry), Chapter 463 (Optometry), Chapter 468, Part I (Speech-Language Pathology & Audiology), or Chapter 460 (Chiropractic Medicine), Florida Statutes, or by a comparable practitioner licensed in another jurisdiction in the United States. Such documentation shall be sufficient to allow an independent reviewer to evaluate the diagnosed condition(s) and shall include:

1. through 4. No change.

(4) through (6) No change.

(7) Candidates who have previously received special testing accommodations for an examination in accordance with the Americans with Disabilities Act and need accommodations for another examination or for a retake of the same examination must submit their request to the department no later than (60) days from the date of the first day of the examination for which special testing accommodation is requested on form DH-MQA 1191, ~~2/2011 3/09~~, Reapplication for Special Testing Accommodations in Accordance with the Americans with Disabilities Act. Form DH-MQA 1191, ~~2/2011 3/09~~, is hereby incorporated by reference, and can be obtained on the Examination Testing Services website at: <http://doh.state.fl.us/mqa/Exam/index.htm> ~~<http://www.doh.state.fl.us/mqa/exam/speectest.htm>~~ or from Division of Medical Quality Assurance, Bureau of Operations, Practitioner Reporting and Examination Testing Services, 4052 Bald

Cypress Way, Bin #C-90, Tallahassee, Florida 32399-3290. Candidates must file form DH-MQA 1191, ~~2/2011 3/09~~, each time accommodations are needed.

(8) Candidates requesting special testing accommodation due to a religious belief shall submit their request to the department no later than sixty (60) days from the date of the first day of the examination for which special testing accommodation is requested on form DH-MQA 4001, ~~2/2011 6/08~~, Application For Special Testing Accommodations Due to a Religious Conflict. Form DH-MQA 4001, ~~2/2011 6/08~~, is hereby incorporated by reference, and can be obtained on the Examination Testing Services website at: <http://doh.state.fl.us/mqa/Exam/index.htm> ~~<http://www.doh.state.fl.us/mqa/exam/speectest.htm>~~ or from the Division of Medical Quality Assurance, Bureau of Operations, Practitioner Reporting and Examination Testing Services, 4052 Bald Cypress Way, Bin #C-90, Tallahassee, Florida 32399-3290. If the forty-day deadline has passed and that candidate has not requested special accommodation, the department will provide any such requested accommodation that can be made available without posing undue burden or jeopardizing the security and integrity of the examination. However, in no event will accommodation be provided to exam candidates requesting special accommodation ten (10) days or less, before the examination.

(9) Candidates requesting the use of a translation dictionary due to English as a second language- shall submit their request to the department no later than forty (40) days from the date of the first day of the examination for which special testing accommodation is requested on form DH-MQA 1192, ~~2/2011 3/09~~, Application For Use of a Translation Dictionary Due to English as a Second Language. Form DH-MQA 1192, ~~2/2011 3/09~~, is hereby incorporated by reference, and can be obtained on the Examination Testing Services website at <http://doh.state.fl.us/mqa/Exam/index.htm> ~~<http://www.doh.state.fl.us/mqa/exam/speectest.htm>~~ or from the Division of Medical Quality Assurance, Bureau of Operations, Examination Testing Services, 4052 Bald Cypress Way, Bin C-90, Tallahassee, Florida 32399-3290. If the forty-day deadline has passed and that candidate has not requested special accommodation, the department will provide any such requested accommodation that can be made available without posing undue burden or jeopardizing the security and integrity of the examination. However, in no event will accommodation be provided to exam candidates requesting special accommodation ten (10) days or less, before the examination. Translation Dictionaries due to English as a second language are only available where approved by the applicable board and testing vendor policy.

(10) No change.

Rulemaking Authority 456.004(5), 456.017(1) FS. Law Implemented 456.017(1) FS. History—New 9-7-98, Amended 7-20-03, 1-8-09, 9-30-09,_____.

64B-1.008 Grading of Examinations; Grade Notification.

(1) through (3) No change.

(4) The department or its contract provider shall notify the candidate of the results of the candidate’s examination no later than 60 days after the examination date except when the grades are computed by or for a national organization responsible for a national examination in Florida. In the case of a national examination, the grades shall be posted on the Examination Testing Services website at: <http://doh.state.fl.us/mqa/Exam/index.htm> ~~http://www.doh.state.fl.us/mqa/exam/~~ or sent to the candidate no later than 30 days after the department’s receipt of the grades from the national examination provider.

(5) Official grades are to be posted on the Examination Testing Services website, the website shall notify applicants in advance of the window when the official grades will be available on the internet.

(6) through (9) No change.

Rulemaking Authority 456.004(5), 456.017(1) FS. Law Implemented 456.017(1) FS. History—New 9-7-98, Amended 7-20-03, 9-30-09,_____.

64B-1.011 Requirements and Standards of a National Examination.

(1) No change.

(2) If an organization makes a request to the department to certify a national examination, the organization shall submit to the Division of Medical Quality Assurance, Bureau of Operations, Practitioner Reporting and Examination Services Testing, 4052 Bald Cypress Way, Bin #C-90, Tallahassee, Florida 32399-3290, documentation establishing that it meets the requirements established in subsection (1) of this rule, and a non-refundable fee of:

(a) through (c) No change.

(3) No change.

Rulemaking Authority 456.004(5), 456.017(1)(c) FS. Law Implemented 456.017(1) FS. History—New 9-7-98, Amended 7-20-03, 4-7-08, 9-30-09,_____.

64B-1.013 Post-Examination Review.

(1) No change.

(2) A candidate who has taken and failed a department-developed practical or clinical examination or a department-developed computer-based testing examination shall have the right to one post-examination review of those examination questions answered incorrectly, the answers to those examination questions answered incorrectly, and to materials, grades and grading keys related thereto.

(a) A candidate who has taken and failed a department-developed practical or clinical examination shall request a post-examination review in writing to the department. The request shall be postmarked within 21 days from the date that official notification of the failing grade is posted. Official grades are posted on the Examination Testing Services website at: <http://doh.state.fl.us/mqa/Exam/index.htm> ~~http://www.doh.state.fl.us/mqa/exam/~~.

(b) A candidate who has taken and failed a department-developed computer-based examination shall request a post-examination review in writing to the contracted vendor. The request shall be emailed to the contracted vendor within 21 days from the date that official notification of the failing grade is posted. Official grades are posted on the Examination Testing Services website at: <http://doh.state.fl.us/mqa/Exam/index.htm> ~~http://www.doh.state.fl.us/mqa/exam/~~.

(c) Post-examination reviews shall be completed no later than 60 days following the date on which the grades for the examination are posted on the Examination Testing Services website.

(d) through (k) No change.

(3) No change.

Rulemaking Authority 456.004(5), 456.017(2) FS. Law Implemented 456.017(2) FS. History—New 9-7-98, Amended 7-20-03, 6-19-08, 9-30-09,_____.

64B-1.016 Fees: Examination and Post-Examination Review.

(1)(a) The following fees shall be assessed by the department to cover administrative costs, actual per-applicant costs, and costs incurred to develop, purchase, validate, administer, and defend the following department developed, administered, or managed examinations:

| Exam Fees | | |
|-----------------------|----------------------------|------------------|
| Profession | Exam | Exam Fee |
| Chiropractic Medicine | Physical Diagnosis | \$450.00 |
| | Technique | \$450.00 |
| | X-Ray | \$450.00 |
| Dental | Laws & Rules | \$90.00 \$170.00 |
| | Clinical | \$165.00 |
| | Laws & Rules | \$80.00 |
| Dental Hygiene | Diagnostic Skills | \$35.00 |
| | Clinical | \$120.00 |
| | Laws & Rules | \$50.00 \$30.00 |
| Electrolysis | National | \$135.00 |
| | Hearing Aid Specialist | National |
| Massage | Colonies | \$225.00 |
| | Nursing Home Administrator | Laws & Rules |
| Opticianry | National | \$85.00 |
| | Practical | \$470.00 |
| | Neutralization | \$100.00 |

| | | |
|------------------------------|--------------|---|
| Optometry | Clinical | \$1,125.00 |
| | Pharmacology | \$315.00 \$550.00 |
| | Laws & Rules | \$100.00 |
| Physical Therapy | Laws & Rules | \$20.00 |
| | National | \$5.00 |
| Physical Therapist Assistant | Laws & Rules | \$20.00 |
| | National | \$5.00 |
| Psychology | National | \$30.00 |
| | Laws & Rules | \$85.00 \$150.00 |

(b) through (c) No change.

(2) The department shall assess the following non-refundable post examination review fees to cover the actual cost to the department to provide the examination review:

| Review Fees | | |
|----------------------------|--------------------|------------|
| Profession | Exam | Review Fee |
| Chiropractic Medicine | Physical Diagnosis | \$100.00 |
| | Technique | \$100.00 |
| Dental | Clinical | \$180.00 |
| Dental Hygiene | Clinical | \$100.00 |
| Opticianry | Practical | \$170.00 |
| | Neutralization | \$60.00 |
| Optometry | Clinical | \$270.00 |
| Physical Therapy | Laws & Rules | \$80.00 |
| Physical Therapy Assistant | Laws & Rules | \$80.00 |

For those examinations administered through the department's computer based testing vendor, the candidate will be assessed a fee by the vendor to conduct the post-examination review.

Rulemaking Authority 456.004(5), (10), 456.017(1)(b), (2), (6), (7) FS. Law Implemented 456.004(10), 456.017(1), (2) FS. History--New 3-14-02, Amended 7-20-03, 7-12-05, 1-23-07, 4-7-08, 6-29-09, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Lola Pouncey, Bureau Chief, Bureau of Operations, 4052 Bald Cypress Way, Bin #C10, Tallahassee, Florida 32399-3260

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: H. Frank Farmer Jr., M.D., Ph.D., FACP

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: December 5, 2011

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: October 28, 2011

DEPARTMENT OF HEALTH

Board of Occupational Therapy

RULE NO.: 64B11-4.003
 RULE TITLE: Standards of Practice; Discipline

PURPOSE AND EFFECT: The Board proposes the rule amendment to impose supervised probation.

SUMMARY: The rule amendment adds a guideline for supervised probation.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS AND LEGISLATIVE RATIFICATION:

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.

The Agency has determined that the proposed rule is not expected to require legislative ratification based on the statement of estimated regulatory costs or if no SERC is required, the information expressly relied upon and described herein: 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 amendment will not require 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: 456.013, 468.221, 468.204 FS.

LAW IMPLEMENTED: 468.221, 468.209(1) 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: Allen Hall, Executive Director, Board of Occupational Therapy/MQA, 4052 Bald Cypress Way, Bin #C05, Tallahassee, Florida 32399-3255

THE FULL TEXT OF THE PROPOSED RULE IS:

64B11-4.003 Standards of Practice; Discipline.

(1) No change.

(2)(a) No change.

(b) Probation with conditions to include limitations on the type of practice or practice setting, requirements of supervision ~~by a licensee of the Board~~, employer and self reports, periodic appearances before the Board, counseling or participation in the Professionals Resource Network (PRN), payment of administrative fines, and such conditions to assure protection of the public. The licensee may choose any licensed health care professional to be a supervisor. The supervisor should ideally provide such services without compensation. However, the licensee may contract with a for-profit entity for a fee. It is the licensee's full responsibility to pay for any supervision services. All potential supervisors must be approved by the

Board before providing services. The Board Chair, or any other member designated by the Board, is delegated the authority to review all potential supervisors for adequacy.

(c) through (e) No change.

(3) through (7) No change.

Rulemaking Authority 456.079, 468.204 FS. Law Implemented 456.072, 456.079, 468.217 FS. History--New 9-12-88, Amended 11-9-92, Formerly 21M-15.002, 61F6-15.002, 59R-63.002, Amended 1-27-00, 12-27-01, 12-27-05, 4-10-08, 8-5-10,_____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Board of Occupational Therapy

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

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: July 11, 2011

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: August 6, 2010

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

Domestic Violence

RULE NO.: 65H-1.010
RULE TITLE: Purpose

PURPOSE AND EFFECT: Repeal rule identified during the comprehensive rule review required by Executive Order 11-01 (superseded by 11-72) as duplicative, unnecessarily burdensome, or no longer necessary.

SUMMARY: The rule is unnecessary.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS AND LEGISLATIVE RATIFICATION:

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: 39.903 FS.

LAW IMPLEMENTED: 39.903, 39.905, 39.908 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: Renee Starrett, (850)717-4073 or renee_starrett@dcf.state.fl.us

THE FULL TEXT OF THE PROPOSED RULE IS:

65H-1.010 Purpose.

Rulemaking Authority 39.903, FS. Law Implemented 39.903, FS. History--New 11-3-09, Repealed_____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Trula E. Motta, Director, Office of Domestic Violence Program

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: David E. Wilkins, Secretary

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: November 14, 2011

NAVIGATION DISTRICTS

Florida Inland Navigation District

RULE NOS.: RULE TITLES:

66B-1.004 Policy

66B-1.005 Funds Allocation

66B-1.008 Project Eligibility

PURPOSE AND EFFECT: The purpose of the proposed rule development is to include the following provisions in the program rule: Ensure consistency within the rule and Chapter 374, F.S., and define terms for land acquisition eligibility, clarify public navigation eligibility, add marine fire-fighting vessel eligibility, clarify accounting for fees, and determine environmental restoration parameters.

The effect of the rule development is to implement changes in the administration of the District's Assistance Programs that will assist the District and program applicants in the review and evaluation of applications submitted pursuant to the rule.

SUMMARY: Minor changes to Waterways Assistance Program rule sections: Policy, Funds Allocation, and Project Eligibility.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS AND LEGISLATIVE RATIFICATION:

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.

The Agency has determined that the proposed rule is not expected to require legislative ratification based on the statement of estimated regulatory costs or if no SERC is required, the information expressly relied upon and described herein:

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: 374.976(2) FS.

LAW IMPLEMENTED: 374.976(1)-(3) 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 (IF NOT REQUESTED, THIS HEARING WILL NOT BE HELD):

DATE AND TIME: January 10, 2012, 11:00 a.m.

PLACE: District Office, 1314 Marcinski Road, Jupiter, 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 3 days before the workshop/meeting by contacting: Mark Crosley, Assistant Executive Director, Florida Inland Navigation District, 1314 Marcinski Road, Jupiter, Florida 33477, telephone Number: (561)627-3386. 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: Mark Crosley, Assistant Executive Director, Florida Inland Navigation District, 1314 Marcinski Road, Jupiter, Florida 33477, telephone Number: (561)627-3386

THE FULL TEXT OF THE PROPOSED RULE IS:

66B-1.004 Policy.

The following constitutes the policy of the District regarding the administration of the program.

(1) Financial Assistance Eligibility: Eligible federal, state and regional agencies may be provided financial assistance, support or cooperation in planning, acquisition, development, construction, reconstruction, extension, improvement, operation or the maintenance of public navigation, local and regional anchorage management, beach renourishment, public recreation, inlet channel maintenance, inlet management, environmental education, maritime management plans, and boating safety projects directly related to the waterways. Eligible projects shall include the acquisition and development of public boat ramps, launching facilities, and public boat docking and mooring facilities, including those in man-made, navigable waterways contiguous to “waterways” as defined in Rule 66B-1.003, F.A.C.

(2) through (10) No change.

(11) Fees: Any public project eligible for District program funds that charges a fee or will charge a fee must create and maintain an enterprise fund for the public project that shall plan for and retain at all times sufficient funds for the on-going maintenance of the facility during its project life. Accounting records of the previous five years of the public project’s enterprise fund will be submitted as part of any subsequent assistance program application to the District demonstrate that the facility will utilize 50% or greater of the collected funds for project maintenance, and improvements throughout the

~~anticipated 25-year life of a development project or the design life of other project types, as applicable.~~

Rulemaking Authority 374.976(2) FS. Law Implemented 374.976(1), (2) FS. History—New 12-17-90, Amended 2-6-97, Formerly 16T-1.004, Amended 5-17-98, 3-31-99, 3-5-00, 3-21-01, 7-30-02, 3-3-04, 4-21-05, 4-1-09, 3-7-11_____.

66B-1.005 Funds Allocation.

The Board will allocate funding for this program based upon the District’s overall goals, management policies, fiscal responsibilities and operational needs for the upcoming year. If funds are determined to be available for the program, the District will notify potential eligible state and regional agencies of the availability of program funding and the authorized submission period. Applications will be reviewed by the Board utilizing District Form No. 00-25 and No. 00-25 (a) thru (f) Cooperative Assistance Program Application Evaluation and Rating Worksheet (effective date 4-24-06) hereby incorporated by reference and available from the District office.

(1) through (4) No change.

(5) Inlet Management: Projects and project elements in the categories of inlet management shall benefit public navigation within the District and shall be consistent with a Department of Environmental Protection approved inlet management plan.

~~(6)(5)~~ Public Navigation: Projects or project elements in the category of public navigation that will qualify for up to seventy-five percent (75%) program funds must be within the Intracoastal Right-of-Way (ROW), or provide public navigation channel access to two or more public accessible launching, mooring or docking facilities. In addition, the following shall apply:

(a) Navigation channel dredging: The project sponsor must demonstrate that the source of channel sedimentation has been identified and is in the process of, or has been controlled, or that the frequency and amount of shoaling is such that dredging will provide an improvement to the channel that will last for twenty (20) years or more and therefore is more cost effective than identifying and correcting the cause of shoaling, or that the cost of identifying the source of channel sedimentation exceeds the cost of the dredging project;

(b) Navigation channel lighting and markers must be located on primary or secondary public navigation channels.

All other public navigation projects or project elements must have a minimum of one facility open to the public and will only qualify for up to fifty percent (50%) program funding. Dredging that is associated or ancillary to another use (such as a boat ramp, marina or pier) will be prioritized according to the associated use.

(6) Inlet Management: Projects and project elements in the categories of inlet management shall benefit public navigation within the District and shall be consistent with a Department of Environmental Protection approved inlet management plan.

(7) Land Acquisition: All land acquisition projects shall qualify for a maximum of twenty-five (25) percent program funding. All pre-agreement expenses for land acquisition must be completed within one-year of the date of application for funding. All funded land acquisition projects must construct the required boating access facility within 7 years of completion of the land acquisition, or the District may require the applicant to refund the program funding.

Rulemaking Authority 374.976(2) FS. Law Implemented 374.976(1), (3) FS. History—New 12-17-90, Amended 2-6-97, Formerly 16T-1.005, Amended 5-17-98, 3-31-99, 3-21-01, 7-30-02, 3-3-04, 4-21-05, 4-24-06, 4-15-07, 3-25-08, 4-1-09, 3-7-11, _____.

66B-1.008 Project Eligibility.

(1) Eligible Projects: Financial assistance and support through this program shall be used to plan or carry out public navigation and anchorage management, public recreation, environmental education, boating safety, acquisition and development of spoil sites and publicly owned commercial/industrial waterway access directly related to the waterways, acquisition and development of public boat ramps, launching facilities and boat docking and mooring facilities, and inlet management, maritime management planning, environmental mitigation and beach renourishment directly related to the waterways.

(a) Program funds may be used for projects such as acquisition planning, development, construction, reconstruction, extension or improvement, of the following for public use on land and water:

1. Public navigation channel dredging;
2. Public navigation aids and markers;
3. Inlet management projects that are a benefit to public navigation in the District;
4. Public shoreline stabilization directly benefiting the District's waterway channels;
5. Acquisition and development of publicly owned spoil disposal site and public commercial/industrial waterway access;
6. Waterway signs and buoys for safety, regulation or information;
7. Acquisition, dredging, shoreline stabilization and development of public boat ramps and launching facilities;
8. Acquisition, dredging, shoreline stabilization and development of public boat docking and mooring facilities;
9. Derelict Vessel Removal;
10. Waterways related environmental education programs and facilities;
11. Public fishing and viewing piers;
12. Public waterfront parks and boardwalks and associated improvements;

13. Maritime Management Planning;

14.13. Waterways boating safety programs and equipment;

15.14. Beach renourishment on beaches adversely impacted by navigation inlets, navigation structures, navigation dredging, or a navigation project; and

16. Environmental restoration, enhancement or mitigation projects and

17. Other waterway related projects.

(b) through (c) No change.

2. Marine fire-fighting vessels are eligible for a maximum of \$60,000 in initial District funding. Marine law enforcement and other vessels are eligible for a maximum of \$30,000 in initial District funding. All future replacement and maintenance costs of the vessel and related equipment will be the responsibility of the applicant.

3. No change.

(d) No change.

(2) through (3) No change.

(4) Public Marina Qualifications: All public marina projects funded through this program shall include sewage pumpout facilities for vessels, unless the applicant can demonstrate that inclusion of such a facility is physically, operationally or economically impracticable. All public marina projects funded through this program shall have at least ten percent (10%) of their slips or mooring areas available for transient vessels. Public marina dockage rates shall be within market comparison of the dockage rates of other area marinas. The public marina will be required to establish and maintain an accounting of the funds for the facility and shall plan for and retain at all times sufficient funds for the on-going maintenance of the facility during its project life. Program funds to public marina projects shall not be utilized for replacement of the facilities if revenues generated by the facility are not allocated to the operation, maintenance and improvement of the public marina facility. Public marinas operating under an enterprise fund shall not be subject to in accordance with subsection 66B-2.004(11), F.A.C.

(5) No change.

(6) All eligible environmental restoration, enhancement or mitigation projects as well as the environmental restoration, enhancement or mitigation components of other types of projects shall be required to assign the mitigation credits to the District for that share of the project funded through the District's Assistance Program. All eligible environmental restoration, enhancement or mitigation projects shall provide public access where possible.

(7)(6) Final Decisions: The Board will make all final decisions on the eligibility of a Project or specific project costs.

Rulemaking Authority 374.976(2) FS. Law Implemented 374.976(1)-(3) FS. History—New 12-17-90, Amended 2-6-97, Formerly 16T-1.008, Amended 5-17-98, 3-31-99, 3-5-00, 3-21-01, 7-30-02, 3-20-03, 3-3-04, 4-15-07, 3-25-08, 4-1-09, 2-22-10, 3-7-11, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
 Mark Crosley, Assistant Executive Director
 NAME OF AGENCY HEAD WHO APPROVED THE
 PROPOSED RULE: David Roach, Executive Director
 DATE PROPOSED RULE APPROVED BY AGENCY
 HEAD: December 9, 2012
 DATE NOTICE OF PROPOSED RULE DEVELOPMENT
 PUBLISHED IN FAW: October 21, 2011, Vol. 37/42

NAVIGATION DISTRICTS

Florida Inland Navigation District

| | |
|------------|---------------------|
| RULE NOS.: | RULE TITLES: |
| 66B-2.004 | Policy |
| 66B-2.005 | Funds Allocation |
| 66B-2.008 | Project Eligibility |

PURPOSE AND EFFECT: The purpose of the proposed rule development is to include the following provisions in the program rule: Ensure consistency within the rule and Chapter 374, F.S., and define terms for land acquisition eligibility, clarify public navigation eligibility, add marine fire-fighting vessel eligibility, clarify accounting for fees, and determine environmental restoration parameters.

The effect of the rule development is to implement changes in the administration of the District's Assistance Programs that will assist the District and program applicants in the review and evaluation of applications submitted pursuant to the rule.

SUMMARY: Minor changes to Waterways Assistance Program rule sections: Policy, Funds Allocation, and Project Eligibility.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS AND LEGISLATIVE RATIFICATION:

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.

The Agency has determined that the proposed rule is not expected to require legislative ratification based on the statement of estimated regulatory costs or if no SERC is required, the information expressly relied upon and described herein:

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: 374.976(2) FS.

LAW IMPLEMENTED: 374.976(1)-(3) 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 (IF NOT REQUESTED, THIS HEARING WILL NOT BE HELD):

DATE AND TIME: January 10, 2012, 11:00 a.m.
 PLACE: District Office, 1314 Marcinski Road, Jupiter, 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 3 days before the workshop/meeting by contacting: Mark Crosley, Assistant Executive Director, telephone number: (561)627-3386. 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: Mark Crosley, Assistant Executive Director, Florida Inland Navigation District, 1314 Marcinski Road, Jupiter, Florida 33477, telephone Number: (561)627-3386

THE FULL TEXT OF THE PROPOSED RULE IS:

66B-2.004 Policy.

The following constitutes the policy of the District regarding the administration of the program:

(1) Financial Assistance Eligibility: Financial assistance, support and cooperation may be provided to eligible governmental agencies for approved projects as follows:

(a) through (b) No change.

(c) Navigation related districts may be provided with financial assistance to pay part of the costs of the planning and acquisition of dredge material management sites if the Board finds that the site is required for the long-range maintenance of the Atlantic Intracoastal Waterway channel. All such sites must meet the development and operational criteria established by the District through a long-range dredge material management plan for that county. Navigation related districts may also be provided with assistance for waterway related access projects, environmental mitigation projects associated with waterway improvement related activities, inlet channel maintenance, and inlet management projects if the Board finds that the project benefits public navigation in the Atlantic Intracoastal Waterway. All navigation related districts shall contribute at least equal matching funds to any District financial assistance provided. Seaports may also be furnished assistance and support in planning and carrying out environmental mitigation projects. All seaport projects shall benefit publicly maintained channels and harbors. Each seaport shall contribute matching funds for funded projects.

(d) No change.

(2) through (10) No change.

(11) Fees: Any public project eligible for District program funds that charges a fee or will charge a fee must create and maintain an enterprise fund for the public project that shall plan for and retain at all times sufficient funds for the on-going maintenance of the facility during its project life. Accounting records of the previous five years of the public project's

~~enterprise fund will be submitted as part of any subsequent assistance program application to the District demonstrate that the facility will utilize 50% or greater of the collected funds for project maintenance, and improvements throughout the anticipated 25-year life of a development project or the design life of other project types, as applicable.~~

Rulemaking Authority 374.976(2) FS. Law Implemented 374.976(1), (2) FS. History—New 12-17-90, Amended 2-3-94, 2-6-97, Formerly 16T-2.004, Amended 5-18-98, 3-31-99, 5-25-00, 3-21-01, 7-30-02, 3-3-04, 4-21-05, 4-1-09, 2-22-10, 3-7-11, _____.

66B-2.005 Funds Allocation.

The Board will allocate funding for this program based upon the District’s overall goals, management policies, fiscal responsibilities and operational needs for the upcoming year. If funds are determined to be available for the program, the District will notify potential eligible governmental agencies of the availability of program funding. Applications will be reviewed by the Board utilizing District Forms No. 91-25 and 91-25 (a) through (f) Waterways Assistance Program Application Evaluation and Rating Worksheet (effective date 4-24-06); and 93-25 and 93-25 (a), (b) and (c) Waterways Assistance Program Navigation Districts Application Evaluation and Rating Worksheet (effective date 4-24-06), hereby incorporated by reference and available from the District office.

(1) through (4) No change.

~~(5) Seaport Funding Eligibility: Financial assistance to seaports may exceed the proportional share of the District’s ad valorem tax collections as set forth in subsection 66B-2.005(1), F.A.C., from the county in which such seaport is located if the seaport can demonstrate that a regional benefit occurs from the port’s activities. Financial assistance to a seaport project that demonstrates a regional benefit shall not exceed an amount equal to (i) the proportional share of the District’s ad valorem tax collections as set forth in subsection 66B-2.005(1), F.A.C., from the counties where the benefit is demonstrated less (ii) funding allocated in the same fiscal year to all other local government projects funded in those counties.~~

~~(5)(6) Inlet Management and Beach Renourishment:~~ Projects and project elements in the categories of inlet management and beach renourishment shall be subject to the following provisions. The District shall contribute no more than fifty percent of the local share of the cost of the project. The District shall not contribute funding to both the state and local shares of an inlet management or beach renourishment project. Funding for the construction phase of an inlet management or beach renourishment project may be approved by the District Board for a multiple year period subject to budgeting and allocation pursuant to the provisions of Chapter 200, F.S. Additionally the following provisions shall be met for inlet management or beach renourishment projects:

(a) Inlet Management: Inlet management projects shall benefit public navigation within the District and shall be consistent with Department of Environmental Protection approved inlet management plans and the statewide beach management plan pursuant to Section 161.161, F.S. Inlet management projects that are determined to be consistent with Department of Environmental Protection approved inlet management plans are declared to be a benefit to public navigation.

(b) Beach Renourishment: All projects in this category shall be consistent with the statewide beach management plan. Beach renourishment projects shall only include those beaches that have been adversely impacted by navigation inlets, navigation structures, navigation dredging, or a navigation project. The determination of beach areas that are adversely impacted by navigation for the purposes of this program shall be made by Department of Environmental Protection approved inlet management plans. If state funding is not provided for a beach project, public access with adequate parking must be available in accordance with Chapter 161, F.S.

(6) Public Navigation: Projects or project elements in the category of public navigation that will qualify for up to seventy-five percent (75%) program funds must be within the Intracoastal Right-of-Way (ROW), or provide public navigation channel access to two or more public accessible launching, mooring or docking facilities. In addition, the following shall apply:

(a) Navigation channel dredging: The project sponsor must demonstrate that the source of channel sedimentation has been identified and is in the process of, or has been controlled, or that the frequency and amount of shoaling is such that dredging will provide an improvement to the channel that will last for twenty (20) years or more and therefore is more cost effective than identifying and correcting the cause of shoaling, or that the cost of identifying the source of channel sedimentation exceeds the cost of the dredging project.

(b) Navigation channel lighting and markers must be located on primary or secondary public navigation channels. All other public navigation projects or project elements must have a minimum of one facility open to the public and will only qualify for up to fifty percent (50%) program funding. Dredging that is associated or ancillary to another use (such as a boat ramp, marina or pier) will be prioritized according to the associated use.

~~(7)(6) Land Acquisition:~~ All land acquisition projects shall qualify for a maximum of twenty-five (25) percent program funding. All pre-agreement expenses for land acquisition must be completed within one-year of the date of application for funding. All funded land acquisition projects must construct the required boating access facility within 7 years of completion of the land acquisition, or the District may require the applicant to refund the program funding.

(8) Seaport Funding Eligibility: Financial assistance to seaports may exceed the proportional share of the District's ad valorem tax collections as set forth in subsection 66B-2.005(1), F.A.C., from the county in which such seaport is located if the seaport can demonstrate that a regional benefit occurs from the port's activities. Financial assistance to a seaport project that demonstrates a regional benefit shall not exceed an amount equal to (i) the proportional share of the District's ad valorem tax collections as set forth in subsection 66B-2.005(1), F.A.C., from the counties where the benefit is demonstrated less (ii) funding allocated in the same fiscal year to all other local government projects funded in those counties.

Rulemaking Authority 374.976(2) FS. Law Implemented 374.976(1), (3) FS. History—New 12-17-90, Amended 6-24-93, 9-5-96, 2-6-97, Formerly 16T-2.005, Amended 5-17-98, 8-26-99, 3-21-01, 7-30-02, 3-3-04, 4-21-05, 4-24-06, 4-15-07, 3-25-08, 4-1-09, 3-7-11, _____.

66B-2.008 Project Eligibility.

(1) Eligible Projects: Financial assistance and support through this program shall be used to plan or carry out public navigation and anchorage management, public recreation, environmental education, boating safety, acquisition and development of spoil sites and publicly owned commercial/industrial waterway access directly related to the waterways, acquisition and development of public boat ramps, launching facilities and boat docking and mooring facilities, inlet management, maritime management planning, environmental mitigation and beach renourishment.

(a) Program funds may be used for projects such as acquisition, planning, development, construction, reconstruction, extension, or improvement, of the following types of projects for public use on land and water. These project types will be arranged into a priority list each year by vote of the Board. The priority list will be distributed to applicants with the project application.

1. Public navigation channel dredging;
2. Public navigation aids and markers;
3. Inlet management projects that are a benefit to public navigation in the District;
4. Public shoreline stabilization directly benefiting the District's waterway channels;
5. Acquisition and development of publicly owned spoil disposal site and public commercial/industrial waterway access;
6. Waterway signs and buoys for safety, regulation or information;
7. Acquisition, dredging, shoreline stabilization and development of public boat ramps and launching facilities;
8. Acquisition, dredging, shoreline stabilization and development of public boat docking and mooring facilities;
9. Derelict Vessel Removal;

10. Waterways related environmental education programs and facilities;

11. Public fishing and viewing piers;

12. Public waterfront parks and boardwalks and associated improvements;

13. Maritime Management Planning:

14.13. Waterways boating safety programs and equipment;

15.14. Beach renourishment on beaches adversely impacted by navigation inlets, navigation structures, navigation dredging, or a navigation project; and

16. Environmental restoration, enhancement or mitigation projects and

17. Other waterway related projects.

(b) through (c) No change.

2. Marine fire-fighting vessels are eligible for a maximum of \$60,000 in initial District funding. Marine law enforcement and other vessels are eligible for a maximum of \$30,000 in initial District funding. All future replacement and maintenance costs of the vessel and related equipment will be the responsibility of the applicant.

3. No change.

(d) No change.

(4) Public Marina Qualifications: All public marina projects funded through this program shall include sewage pumpout facilities for vessels, unless the applicant can demonstrate that inclusion of such a facility is physically, operationally or economically impracticable. All public marina projects funded through this program shall have at least ten percent (10%) of their slips or mooring areas available for transient vessels. Public marina dockage rates shall be within market comparison of the dockage rates of other area marinas. The public marina will be required to establish and maintain an accounting of the funds for the facility and shall plan for and retain at all times sufficient funds for the on-going maintenance of the facility during its project life. Program funds to public marina projects shall not be utilized for replacement of the facilities if revenues generated by the facility are not allocated to the operation, maintenance and improvement of the public marina facility. Public marinas operating under an enterprise fund shall not be subject to in accordance with subsection 66B-2.004(11), F.A.C.

(5) No change.

(6) All eligible environmental restoration, enhancement or mitigation projects as well as the environmental restoration, enhancement or mitigation components of other types of projects shall be required to assign the mitigation credits to the District for that share of the project funded through the District's Assistance Program. All eligible environmental restoration, enhancement or mitigation projects shall provide public access where possible.

~~(7)~~(6) Final Decisions: The Board will make all final decisions on the eligibility of a Project or specific project costs.

Rulemaking Authority 374.976(2) FS. Law Implemented 374.976(1)-(3) FS. History—New 12-17-90, Amended 9-2-92, 6-24-93, 2-3-94, 4-12-95, 9-5-96, 2-6-97, Formerly 16T-2.008, Amended 5-17-98, 3-31-99, 5-25-00, 3-21-01, 7-30-02, 3-20-03, 3-3-04, 4-15-07, 3-25-08, 4-1-09, 2-22-10, 3-7-11, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Mark Crosley, Assistant Executive Director
NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: David Roach, Executive Director
DATE PROPOSED RULE APPROVED BY AGENCY HEAD: December 9, 2012
DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: October 21, 2011, Vol. 37, No. 42

Section III Notices of Changes, Corrections and Withdrawals

DEPARTMENT OF EDUCATION

State Board of Education

RULE NO.: 6A-1.09422 RULE TITLE: Florida Comprehensive Assessment Test and End-of-Course Assessment Requirements

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. 44, November 4, 2011 issue of the Florida Administrative Weekly.

Subsections (6) and (8) of Rule 6A-1.09422 are amended to read:

(6) Examinee scores on the FCAT 2.0 Reading and Mathematics shall be reported by the use of scaled scores and achievement levels defined by the baseline assessment administered during the 2010-2011 school year. Examinee scores on the FCAT 2.0 Science shall be reported by the use of scaled scores and achievement levels defined by the baseline assessment administered during the 2011-2012 school year. Examinee scores on EOC assessments shall be reported by the use of scaled scores and achievement levels defined by the baseline assessment administered as follows: Algebra 1 EOC Assessment (2010-2011), Geometry EOC Assessment (2011-2012), Biology 1 EOC Assessment (2011-2012), United States History EOC Assessment (2012-2013), and Civics EOC Assessment (2013-2014). Achievement levels range from 1 through 5, with level 1 being the lowest achievement level, level 5 being the highest achievement level, and level 3 indicating satisfactory performance on the assessment. Scoring at or above achievement level ~~4~~ 3 on a Florida EOC Assessment indicates that a student is high achieving and has the potential to meet college-readiness standards by the time the student graduates from high school.

(a) The achievement levels for the FCAT 2.0 Reading and Mathematics shall be as shown in the following tables.

| FCAT 2.0 Reading developmental scale scores (140 to 302) for each achievement level: | | | | | |
|--|----------------|----------------|----------------|----------------|----------------|
| Grade | Level 1 | Level 2 | Level 3 | Level 4 | Level 5 |
| 3 | 140-181 | 182-197 | 198-209 | 210-226 | 227-260 |
| 4 | 154-191 | 192-207 | 208-220 | 221-237 | 238-269 |
| 5 | 161-199 | 200-215 | 216-229 | 230-245 | 246-277 |
| 6 | 167-206 | 207-221 | 222-236 | 237-251 | 252-283 |
| 7 | 171-212 | 213-227 | 228-242 | 243-257 | 258-289 |
| 8 | <u>175-217</u> | <u>218-234</u> | <u>235-248</u> | <u>249-263</u> | <u>264-296</u> |
| 9 | <u>178-221</u> | <u>222-239</u> | <u>240-252</u> | <u>253-267</u> | <u>268-302</u> |
| 10 | <u>188-227</u> | <u>228-244</u> | <u>245-255</u> | <u>256-270</u> | <u>271-302</u> |

| FCAT 2.0 Mathematics developmental scale scores (140 to 298) for each achievement level: | | | | | |
|--|---------|---------|---------|---------|---------|
| Grade | Level 1 | Level 2 | Level 3 | Level 4 | Level 5 |
| 3 | 140-182 | 183-197 | 198-213 | 214-228 | 229-260 |
| 4 | 155-196 | 197-209 | 210-223 | 224-239 | 240-271 |
| 5 | 163-204 | 205-219 | 220-233 | 234-246 | 247-279 |
| 6 | 170-212 | 213-226 | 227-239 | 240-252 | 253-284 |
| 7 | 179-219 | 220-233 | 234-247 | 248-260 | 261-292 |
| 8 | 187-228 | 229-240 | 241-255 | 256-267 | 268-298 |

(b) The achievement levels for the Algebra 1 EOC Assessment shall be as shown in the following table.

Algebra 1 EOC Assessment scale scores (325 to 475) for each achievement level:

| Level 1 | Level 2 | Level 3 | Level 4 | Level 5 |
|---------|---------|---------|---------|---------|
| 325-374 | 375-398 | 399-424 | 425-436 | 437-475 |

(8) For students who entered grade nine during the 2000-2001 school year through the 2009-2010 school year, the passing score for the required reading and mathematics assessments shall be a score equal to or greater than 300 on the 100 to 500 scale, and 1926 for the reading assessment and 1889 for the mathematics assessment on the developmental scale, unless the student had previously qualified for the