

NOTICE OF CORRECTION

PURPOSE AND EFFECT: The proposed rule will implement Chapter 2012-63, Laws of Florida by replacing the Florida Administrative Weekly with the Florida Administrative Register created by that chapter. It will describe the manner and timing of filing material to be noticed in the online Florida Administrative Register which will be published daily.

DEPARTMENT OF CORRECTIONS

RULE NO.: 33-602.211
 RULE TITLE: Restraint of Pregnant Inmates

NOTICE OF CORRECTION

Notice is hereby given that the following correction has been made to the proposed rule in Vol. 38, No. 28, July 13, 2012 issue of the Florida Administrative Weekly.

References to “Ch. 2012-41, Laws of Florida” in the Summary, Rulemaking Authority, and Law Implemented sections of the Notice should be corrected to state “Section 944.241, F.S.”. Also, the last sentence of subsection (2) and subsection (9) are struck as follows: ~~The effective date of the form is _____.~~ Finally, the phrase “Ch. 2012-41, Laws of Florida.” in the last sentence of subsection (8) should be replaced with “Section 944.241(3), F.S.”

DEPARTMENT OF HEALTH

Board of Athletic Training

RULE NO.: 64B33-2.003
 RULE TITLE: Requirements for Continuing Education

NOTICE OF CORRECTION

Notice is hereby given that the following correction has been made to the proposed rule in Vol. 38, No. 29, July 20, 2012 issue of the Florida Administrative Weekly.

The correction is in response to comments submitted by the Joint Administrative Procedures Committee in a letter dated July 23, 2012. The correction is as follows:

PURPOSE AND EFFECT: The Board proposes the rule amendment to delete unnecessary language from the rule due to changes to Chapter 456, Florida Statutes.

SUMMARY: The rule amendment will delete unnecessary language from the rule due to changes to Chapter 456, Florida Statutes.

Rulemaking Authority is corrected to read as: Rulemaking Authority 456.013, ~~456.034(5)~~, 468.705, 468.711(2), (3) FS.

Law Implemented is corrected to read as: 456.013(7), ~~456.034~~, 468.711(2) FS.

NAME AGENCY HEAD WHO APPROVED THE PROPOSED RULE is corrected to read as: Board of Athletic Training

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

DEPARTMENT OF FINANCIAL SERVICES

Division of Funeral, Cemetery, and Consumer Services

RULE NO.: 69K-100.036
 RULE TITLE: Proof of satisfying educational requirements

NOTICE OF WITHDRAWAL

Notice is hereby given that the above rule, as noticed in Vol. 38, No. 21, May 25, 2012 issue of the Florida Administrative Weekly has been withdrawn.

Section IV Emergency Rules

DEPARTMENT OF STATE

Division of Elections

RULE NO.: 1SER12-01
 RULE TITLE: Third-Party Voter Registration Organizations

SPECIFIC REASONS FOR FINDING AN IMMEDIATE DANGER TO THE PUBLIC HEALTH, SAFETY OR WELFARE: Pursuant to Section 120.54(4)(b), Florida Statutes, this emergency rule is a rule pertaining to the public health, safety, and welfare as it involves the interpretation and implementation of the requirements of Chapters 97-102 and 105 of the Florida Election Code. A federal court preliminarily enjoined certain aspects of Section 97.0575, Florida Statutes, concerning third-party voter registration organizations. While regular rulemaking will soon occur for Rule 1S-2.042, F.A.C., this emergency rule is necessary to implement the provisions of the court’s ruling in a timely manner. The emergency rule removes those procedures that have been enjoined and makes additional clarifications to conform the rule to the court’s decision. The emergency rule will provide third-party voter registration organizations and supervisors of elections the direction they need until Rule 1S-2.042, F.A.C., can complete its normal rulemaking cycle.

REASON FOR CONCLUDING THAT THE PROCEDURE IS FAIR UNDER THE CIRCUMSTANCES: The Division of Elections is aware of the rulemaking procedures prescribed by Section 120.54, Florida Statutes. That process requires advance notice to the public of intended rules and the opportunity to submit comments on the intended rule, prior to the agency’s adoption of the rule. The time period for general rulemaking takes at least 60 days and will prevent the timely amendment and adoption of a rule needed to apply to ongoing registration activities conducted by third-party voter registrations organizations. In the interim, the provisions of this emergency

rule will ensure that organizations and supervisors of elections will be able to comply with the requirements of law based upon a federal court ruling preliminarily enjoining certain provisions of Section 97.0575, Florida Statutes. The Department of State will soon file a notice of proposed rule development for Rule 1S-2.042, F.A.C., with the intent to incorporate the text of this emergency rule through regular rulemaking.

SUMMARY: This emergency rule revises the procedures used by third-party voter registration organizations to align them a preliminary injunction issued by a federal court. It restricts the registration requirement to only those organizations who actually collect voter registration applications from voters; eliminates the organization's registration agent sworn statement form, DS-DE 120; deletes the requirement for an organization to list its volunteer registration agents on the registration form, DS-DE 119; deletes the requirement for an organization to file a monthly report, DS-DE 123, accounting for voter registration applications; changes the time period from 48 hours to 10 days for the organization to deliver a completed voter registration application to the Division or to a supervisor of elections' office after an applicant delivers the application to the organization; and further refines the procedures for supervisors of elections regarding untimely filed voter registration applications and the procedures for the Secretary of State's referral of a violation to Florida's Attorney General. The emergency rule is necessary to ensure that third-party voter registration organizations and supervisors of elections have the necessary guidance to comply with the preliminary injunction issued by the U.S. District Court.

THE PERSON TO BE CONTACTED REGARDING THE EMERGENCY RULE IS: Gary J. Holland, Assistant General Counsel, Florida Department of State, 500 S. Bronough Street, Tallahassee, Florida 32399, Gary.Holland@dos.myflorida.com, (850)245-6536

THE FULL TEXT OF THE EMERGENCY RULE IS:

1SER12-01 (1S-2.042) Third-Party Voter Registration Organizations.

(1) Forms. The following forms are hereby incorporated by reference and available from the Division of Elections, R. A. Gray Building, Room 316, 500 South Bronough Street, Tallahassee, Florida 32399-0250, by contact at (850)245-6200, or by download from the Division's webpage at: <http://election.myflorida.com/forms/index.shtml>:

(a) Form DS-DE 119 (eff. ~~09/2012~~ 06/2011), (~~<http://www.flrules.org/Gateway/reference.asp?No=Ref-00428>~~), entitled "Third-Party Voter Registration Organization Registration Form."

(b) ~~Form DS-DE 120 (eff. 06/2011), (<http://www.flrules.org/Gateway/reference.asp?No=Ref-00429>), entitled "Third-Party Voter Registration Organization Registration Agent's Sworn Statement."~~

(b)(e) Form DS-DE 121 (eff. 06/2011), (<http://www.flrules.org/Gateway/reference.asp?No=Ref-00430>), entitled "Form for Complaint Against Third-Party Voter Registration Organization."

(d) ~~Form DS-DE 123 (eff. 06/2011), (<http://www.flrules.org/Gateway/reference.asp?No=Ref-00431>), entitled "Third-Party Voter Registration Organization's Accounting of Voter Registration Applications."~~

(c)(e) Form DS-DE 124 (eff. 06/2011) (<http://www.flrules.org/Gateway/reference.asp?No=Ref-00608>), entitled "Supervisor of Elections' Accounting of Third-Party Voter Registration Organization's Voter Registration Applications."

(2) Definitions. For purposes of Section 97.0575, F.S., the following definitions apply:

(a) "Affiliate organization" of a third-party voter registration organization means any person, as defined in Section 1.01(3), F.S., that is associated with the third-party voter registration organization as a subordinate, subsidiary, member, branch, chapter, as a central or parent organization, or through direct or indirect ownership or control. Ownership or control means substantial and effective, though not necessarily predominant, ownership or control.

(b) "Engaging in any voter registration activities" means that the organization is ~~soliciting for collection or~~ collecting voter registration applications from Florida voter registration applicants.

(c) "Force majeure" means any event or occurrence of societal significance beyond the reasonable control and without the fault of the third-party voter registration organization which could not have been prevented, avoided, or overcome by the exercise of reasonable care, diligence, or foresight of the third-party voter registration organization, including, but not limited to, civil disturbances or acts of war; extraordinarily severe weather, such as hurricanes, floods, or tornadoes; or shortages of food, electric power, or fuel.

(d) "Impossibility of performance" means an actual impossibility or impracticability of compliance as the result of a condition or circumstance which the third-party voter registration organization did not create and could not reasonably have anticipated.

(e) "Registration agent" means any individual who is employed by or volunteers for a third-party voter registration organization and ~~who solicits for collection or~~ who collects voter registration applications from Florida voter registration applicants on behalf of the organization.

(3) Registration.

(a) Before engaging in any voter registration activities, a third-party voter registration organization (hereinafter "organization") shall complete and file Form DS-DE 119 with the Division. The organization must submit the form as an attachment in pdf format in an email to 3PVR0@dos.myflorida.com or transmit the form to the

Division's facsimile machine at (850)245-6291. An affiliate organization which itself independently engages in separate solicits for collection of or collects voter registration applications from Florida voter registration applicants on behalf of the affiliate must file a Form DS-DE 119 even if its affiliated organization has filed a Form DS-DE 119. An organization shall also use Form DS-DE 119 to update or terminate its registration.

(b) Upon receipt of an organization's initial and completed registration, the Division shall assign the organization a unique third-party voter registration organization identification number that begins with "3P." An organization is not deemed registered as a third-party voter registration organization until the Division issues the organization its identification number.

~~(c) A registration agent must complete, sign, and date Form DS-DE 120 before beginning his or her duties for the organization and the organization must ensure the form is submitted to the Division within 10 days after the form is signed. Form DS-DE 120 may be submitted to the Division when the organization submits its initial Form DS-DE 119. For any addition to the list of its registration agents or change in information about a registration agent other than termination of a registration agent, the organization shall submit an updated Form DS-DE 119. For permissible means of notifying the Division of the termination of a registration agent, See paragraph (6)(b).~~

~~(c)(d) A registration agent may be a registration agent for one or more organizations, but each organization must ensure that the registration agent submits a separate Form DS-DE 120 for its organization.~~

~~(d)(e) An organization shall submit any change in information previously submitted to the Division, including any addition to the list of its employee registration agents, any termination of an employee registration agent, or change in information about an employee registration agent, within 10 days following the change. A change is not considered filed until the Division receives the change. Notice of termination of an employee registration agent shall be provided as set forth in paragraph (6)(b).~~

~~(e)(f) Except as otherwise provided in paragraph (6)(b), any forms or amendments or additions to forms required under this subsection must be submitted in the same manner of transmission required for the Form DS-DE 119 used to initially register an organization.~~

(4) Voter Registration Applications Provided to and Used by Third-Party Voter Registration Organizations.

(a) All voter registration applications provided by the Division and each supervisor of elections to an organization shall include the third-party voter registration organization identification number on the bottom of the reverse side of each voter registration application in a manner that does not obscure any other entry.

(b) The registration agent or the organization shall print the date ~~and time~~ that the ~~voter registration~~ applicant delivered completed the application to the registration agent in a conspicuous space on the bottom portion of the reverse side of the voter registration application ~~it collects from a voter registration applicant~~ in a manner that does not obscure any other entry. The date ~~and time~~ printed by the registration agent or the organization shall be in the following numerical format: MM/DD/YY; ~~hh:mm a.m./p.m.~~ For example, if the voter registration applicant completed the application on May 15, 2014 ~~at 1:30 p.m.~~, the entry on the bottom portion of the reverse side of the application shall be: 5/15/14; ~~1:30 p.m.~~ The entry for an application completed on October 11, 2014 at 11:30 a.m., would be printed as 10/11/14; 11:30 a.m. on the bottom portion of the reverse side of the application.

(c) Each organization shall ensure that its assigned organization identification number is recorded on the bottom portion of the reverse side of any voter registration application it delivers to the Division or a supervisor of elections in a manner that does not obscure any other entry.

(d) Delivery of the voter registration application by the organization to the Division or a supervisor of elections may be accomplished by in-person delivery or mail. All applications must be delivered to the Division or a supervisor of elections or be postmarked within 10 calendar days of collection by an organization or any of its registration agents. If the 10th day falls on a weekend, holiday, or other day on which the Division or the supervisor of elections office is closed, the voter registration application must be delivered to the Division or the supervisor of elections or be postmarked by the following business day. If, however, a book closing deadline for any given election for federal or state office falls within the 10-day period described above, all applications collected by an organization or any of its registration agents before book closing must be delivered to the Division or a supervisor of elections on or before the book closing deadline.

(5) Referral to Attorney General for Enforcement; Waiver of Fines upon Showing of Force Majeure or Impossibility of Performance Monthly Report by Organizations.

(a) In exercising the authority to refer violations of the third-party voter registration law to the Attorney General for enforcement, the Secretary of State's principal concern is the protection of applicants who have entrusted their voter registration applications to a third-party voter registration organization. By law, the organization serves as a fiduciary to those applicants, who have a right to expect that their applications will be timely delivered to an elections official irrespective of party affiliation, race, ethnicity, or gender. By the 10th day of each month, each organization shall submit to the Division a Form DS-DE 123 to account for the number of state and federal voter registration application forms provided to and received from each of its registration agents for the preceding month. If the organization had no voter registration

activity in the preceding month, the organization shall still submit Form DS-DE 123 reflecting that it did not provide voter registration applications to, or receive any from, its registration agents.

(b) Any organization claiming that its failure to deliver a voter registration application within the required timeframe was based upon force majeure or impossibility of performance may provide a sworn statement to the Division explaining the circumstances constituting force majeure or impossibility of performance. Form DS-DE 123 required under this subsection must be submitted as an attachment in pdf format in an email to 3PVRO@dos.myflorida.com or transmitted to the Division's facsimile machine at (850)245-6291.

(c) If the information provided to the Division by the organization demonstrates that the failure to timely deliver a voter registration application was the result of force majeure or impossibility of performance, the Secretary of State will not refer the violation to the Attorney General for enforcement.

(6) Termination of Organization and Employee Registration Agent.

(a) If an organization terminates its status as a third-party voter registration organization, the organization shall submit within 10 days a Form DS-DE 119 reflecting its termination and also a Form DS-DE 123 to report its final accounting of voter registration application forms provided to the organization by the Division or any supervisor of elections. All such voter registration applications remaining in the organization's possession should be returned either to the Division or a supervisor of elections within 10 days of filing Form DS-DE 123. The address for the Division is Bureau of Voter Registration Services, Division of Elections, R. A. Gray Building, Room 316, Tallahassee, Florida 32399-0250. The address for the applicable supervisor of elections may be obtained by telephoning (850)245-6200 or found on the Internet at http://election.dos.state.fl.us/SOE/supervisor_elections.shtml.

(b) If an employee registration agent's employment with, or volunteer services for, an organization is terminated, the organization shall file notice of the terminated status of ~~a~~ the employee registration agent by submitting an updated Form DS-DE 119 or by sending a notification of the termination by email to 3PVRO@dos.myflorida.com or by transmitting the notification to the Division's facsimile machine at (850)245-6291 within 10 days of the termination. If Form DS-DE 119 is not used as the means of notification, the notification shall contain the organization's assigned identification number and the name of the employee registration agent being terminated.

(c) Forms DS-DE 119 and DS-DE 123 required under this subsection must be submitted as an attachment in pdf format in an email to 3PVRO@dos.myflorida.com or transmitted to the Division's facsimile machine at (850)245-6291.

(7) Processing of Voter Registration Applications from an Organization by the Division and Supervisors of Elections.

(a) For each non-blank registration application that an organization delivers to the Division or supervisor of elections, a voter registration official shall record the date ~~and time~~ of delivery on the bottom portion of the reverse side of the application in a manner that does not obscure any other entries. For purposes of this rule and not for voter registration purposes, an application is considered delivered to the Division or a supervisor of elections at the time the application is actually delivered by the organization by in-person delivery or, if mailed, the date of delivery shall be the date of a clear postmark, if one is present on the mailing envelope. If a postmark is not present or unclear, the date of delivery to the Division or a supervisor of elections is the actual date of receipt. ~~If the date of delivery is the mail postmark, the applicable 48 hour period for the determination of fines pursuant to Section 97.0575, F.S., shall be based upon a whether the postmark is within two days of the date when the applicant completed the voter registration application, unless the organization provides documentation at the time of mailing the application that the date the applicant completed the application was on an earlier date than when the applicant delivered the application to the organization.~~ For a determination of a fine based upon the application being received by mail after the book closing date, a clear postmark on or before the date of book closing will excuse the fine. If an organization delivers more than one application at the same time, those applications shall bear the same date ~~and time~~ of delivery regardless of when the applications are processed.

(b) An organization's untimely delivery of a voter registration application does not affect the validity of the application. Every ~~Such~~ application must be processed regardless of the timeliness of its delivery.

(c) The Division and supervisors of elections shall record the number of state or federal voter registration applications they provide to, and receive from, each organization. Each supervisor of elections shall report to the Division on Form DS-DE 124 by noon of the following business day the number of voter registration applications provided to and received from each organization the previous business day. Supervisors of Elections are not required to submit Form DS-DE 124 when they did not provide any voter registration applications to, or receive any from, an organization on the preceding business day.

(d) Form DS-DE 124 required under this subsection must be submitted as an attachment in pdf format in an email to 3PVRO@dos.myflorida.com or transmitted to the Division's facsimile machine at (850)245-6291.

(8) Complaints.

(a) Any person claiming to have provided a completed voter registration application to a third-party voter registration organization but whose name does not appear as an active voter on the voter registration rolls shall use Form DS-DE 121 to file the complaint with the Division.

(b) Any other person, except supervisors of elections or their staff, may report allegations of irregularities or fraud involving voter registration by filing an elections fraud complaint with the Division. *See* Rule 1S-2.025, F.A.C.

(c) Supervisors of elections or their staff shall report any untimely filed voter registration application submitted by an organization by sending the Division an explanatory statement in an email and attaching documents which reflect the untimely submission in pdf format to 3PVRO@dos.myflorida.com, ~~or~~ by transmitting the explanatory statement and documentation to the Division's facsimile machine at (850)245-6291, or by having them delivered by express mail or expedited courier service. For any application containing an organization's identification number --but no other information indicating it was collected by a third-party voter registration organization, such as a cover letter or a "date delivered" mark as required by paragraph (4)(b) and that was received after the book closing date or more than 10 days after the date on which the applicant signed it -- the explanatory statement should include a description of the supervisor's efforts to contact the applicant to confirm that the application was delivered to the organization.

(d) The Secretary of State will not refer a violation to the Attorney General unless there is evidence that the applicant entrusted the voter registration application to a third-party voter registration organization.

(9) Effective Date. This rule is effective on August 15, 2012.

Rulemaking Authority 20.10(3), 97.012(1), (2), (15), 97.0575(1), (2), (5) FS. Law Implemented 97.012(1), (2), (15), 97.021(37), 97.053, 97.0575 FS. History--New 2-26-09, Amended 5-31-10, 11-2-11, 8-15-12.

THIS RULE TAKES EFFECT UPON BEING FILED WITH THE DEPARTMENT OF STATE UNLESS A LATER TIME AND DATE IS SPECIFIED IN THE RULE.

EFFECTIVE DATE: August 15, 2012

Section V Petitions and Dispositions Regarding Rule Variance or Waiver

STATE BOARD OF ADMINISTRATION

NOTICE IS HEREBY GIVEN that on July 31, 2012, the State Board of Administration of Florida (SBA), Florida Hurricane Catastrophe Fund, received a petition for Emergency Variance or Waiver from Rules 19-8.010 and 19-8.030, F.A.C., from American Coastal Insurance Company. The above referenced

rules address, among other things, the timing of selections of optional coverage. The Petitioner is requesting that the deadlines be waived and an untimely cancellation of optional coverage be allowed.

A copy of the Petition for Variance or Waiver may be obtained by contacting: Tina Joanos, Agency Clerk, SBA, P. O. Box 13300, Tallahassee, FL 32317-3300 or email: Tina.Joanos@sbafla.com. Any interested person or other agency may submit written comments on the Petition for Emergency Waiver or Variance. To be considered, comments must be received by the close of business on the 5th day following publication of this notice in the August 17, 2012, edition of the Florida Administrative Weekly. Comments should be sent to the Agency Clerk at the address provided above.

NOTICE IS HEREBY GIVEN that on August 7, 2012, the State Board of Administration of Florida (SBA), Florida Hurricane Catastrophe Fund, received a petition for Emergency Variance or Waiver from Rules 19-8.010 and 19-8.030, F.A.C., from Cypress Property & Casualty Insurance Company. The above referenced rules address, among other things, the timing of selections of optional coverage. The Petitioner is requesting that the deadlines be waived and an untimely cancellation of optional coverage be allowed.

A copy of the Petition for Variance or Waiver may be obtained by contacting: Tina Joanos, Agency Clerk, SBA, P. O. Box 13300, Tallahassee, FL 32317-3300 or email: Tina.Joanos@sbafla.com. Any interested person or other agency may submit written comments on the Petition for Emergency Waiver or Variance. To be considered, comments must be received by the close of business on the 5th day following publication of this notice in the August 17, 2012, edition of the Florida Administrative Weekly. Comments should be sent to the Agency Clerk at the address provided above.

PUBLIC SERVICE COMMISSION

The Florida Public Service Commission hereby gives notice that the Florida Division of Chesapeake Utilities Corporation's petition for waiver of paragraph 25-7.045(8)(a), Florida Administrative Code, filed April 12, 2012, in Docket No.: 120081-GU was approved by the Commission by Order No.: PSC-12-0354-PAA-GU, issued July 9, 2012, consummated by Order No.: PSC-12-0403-CO-GU, issued August 6, 2012. The rule requires companies to file a depreciation study at five year intervals. The petition was approved on the basis that the purpose of the underlying statute would be achieved by other means and application of the rule would create substantial hardship. Notice of the petition was published in the F.A.W. on May 4, 2012.