

1009.21(3)(c)2., F.S., that convincingly demonstrate the establishment of permanent legal residence in Florida other than for the sole purpose of pursuing a postsecondary education. Documentation must demonstrate that the student or, if the student is a dependent, his or her parent has maintained legal residence in Florida for at least twelve (12) consecutive months immediately prior to the first day of classes for the term for which residency reclassification is sought except as otherwise provided in Section 1009.21(6), F.S.

(4) The burden of providing clear and convincing documentation that justifies the university’s classification of a student as a resident for tuition purposes rests with the applicant. For documentation to be “clear and convincing,” it must be credible, trustworthy, and sufficient to persuade the university that the applicant has established legal residency in Florida that is not solely for the purpose of pursuing an education and has relinquished legal residency in any other state for at least twelve (12) months prior to classification. Each university may establish submission deadlines for all documentation that will be used to determine residency for tuition purposes.

(5) A non-United States citizen may be eligible to establish residency for tuition purposes if evidence is presented verifying that he or she is legally present in the United States, has met the residency requirements of Section 1009.21, F.S., and the person is one of the following:

(a) A foreign national in a nonimmigrant visa classification that grants the person the legal ability to establish and maintain a bona fide domicile in the United States according to the United States Citizenship and Immigration Services (USCIS).

1. The following visa categories grant the person the legal ability to establish and maintain a bona fide domicile in the United States according to USCIS: A, E, G, H-1B, H-1C (classification expires 12-20-2011), I, K, L, N, NATO 1-7, O-1, R, S, T, U, and V.

2. The following visa categories do not grant the person the legal ability to establish and maintain a bona fide domicile in the United States according to USCIS: B, C, D, F, M, P, Q, and TN. J visa holders are not eligible to establish residency for tuition purposes except as provided in Section 1009.21(10), F.S.

3. The student, and parent if the student is a dependent, must present evidence of legal presence in the United States.

(b) A permanent resident alien, parolee, asylee, Cuban-Haitian entrant, or other legal alien granted an indefinite stay in the United States. The student, and parent if the student is a dependent, must present evidence of legal presence in the United States.

(6) Each university’s residency appeal process established pursuant to Section 1009.21(12), F.S., shall be in writing and displayed prominently on the university’s Web site.

Rulemaking Specific Authority 1009.21(13) FS. Law Implemented 1009.21 FS. History—Formerly 6C-2.51, 11-18-70, Amended 8-20-71, 6-5-73, 3-4-74, Amended and Renumbered 12-17-74, Amended 1-13-76, 12-13-77, 8-11-81, 6-21-83, 12-13-83, 6-10-84, 10-7-85, 12-31-85, Formerly 6C-7.05, Amended 11-9-92, 4-16-96, \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE:  
Dorothy J. Minear, Senior Associate Vice Chancellor, State University System of Florida, Board of Governors, Academic and Student Affairs

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: State University System of Florida, Board of Governors

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: January 20, 2011

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

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

#### DEPARTMENT OF EDUCATION

##### State Board of Education

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

#### NOTICE OF CHANGE

Notice is hereby given that the following changes have been made to the proposed rule in accordance with subparagraph 120.54(3)(d)1., F.S., published in Vol. 36, No. 47, November 24, 2010 issue of the Florida Administrative Weekly.

Form SES 100 as incorporated by reference in Rule 6A-1.039, F.A.C., has been amended in order to address concerns expressed by the Joint Administrative Procedures Committee to delete references to signed documents being notarized. The following sections were affected:

- V. Hard Copy Documentation (page i)
  - E. Signed ~~notarized~~ statements
- V. Hard Copy Documentation Requirements (page 18)
  - E. Signed ~~notarized~~ statements
- B. CHECKLIST OF HARD-COPY DOCUMENTATION REQUIREMENTS (PAGE 22)
  - Signed ~~notarized~~ statements: (E) ~~Statements must be notarized.~~
  - Suspension or disbarment from receiving federal funding
    - Any lawsuits filed against organization
    - Denial of approval or removed from approval status from another state
    - Unresolved complaints with the Better Business Bureau or FLDOE

- Projected expense report for three months of operating expenses on the *Three Months Projected Expense Report Form* provided in the application.

An applicant that is a school or school district shall provide the following financial soundness documents:

- A. Cover Page;
- B. Checklist of Hard-Copy Documentation Requirements;
- E. Signed ~~Notarized~~ Statements; and
- F. List of Board of Directors.

**E. SIGNED ~~NOTARIZED~~ STATEMENTS** (page 25)

Please submit to the address referenced in Section V signed ~~notarized~~ statements on applicant’s letterhead by the individual authorized to act on behalf of the organization attesting to the following:

- The organization has not been suspended or disbarred from receiving federal funding. If yes, explain the circumstances for suspension or disbarment.
- The organization has had no lawsuits filed against them for educational or fiscal mismanagement, civil rights violations, and criminal acts. If yes, provide information and the outcome for each instance.
- The organization has not been denied approval nor has its approval status as an SES provider been revoked. If the organization has been denied approval or its approval status as an SES provider has been revoked, identify such states or districts and the reasons for such denial or revocation.
- The organization does not have any unresolved complaints with the Better Business Bureau or FLDOE. If the organization does have any known unresolved complaints, provide an explanation of the complaint(s) and results.

For a copy of Form SES 100, please contact Lynn Abbott, Agency Clerk, Department of Education – lynn.abbott@fldoe.org.

**DEPARTMENT OF EDUCATION**

**State Board of Education**

RULE NO.: 6A-1.099824  
 RULE TITLE: Voluntary Prekindergarten (VPK) Program Good Cause Exemption

**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. 36, No. 46, November 19, 2010 issue of the Florida Administrative Weekly.

Rule 6A-1.099824 is amended to read:

6A-1.099824 Voluntary Prekindergarten (VPK) Program Good Cause Exemption.

Pursuant to Section 1002.69, F.S., the State Board of Education, upon request of a private prekindergarten provider or public school that remains on probation for two (2) consecutive years or more and subsequently fails to meet the

minimum rate adopted under Section 1002.69(6)(a), F.S., and for good cause shown may grant to the provider or school an exemption from being determined ineligible to deliver the Voluntary Prekindergarten Education Program and receive state funds for the program.

(1) Criteria for Granting Good Cause Exemptions. Each of the following criteria must be met to be granted a good cause exemption:

(a) Learning Gains. The private prekindergarten provider or public school must demonstrate learning gains on a standardized assessment that tracks the achievement and progress over time of the children having completed the provider’s VPK program. The ratio of students making learning gains to the total number of students assessed must be proportional to the ratio of students ready for kindergarten reflected in the current year’s readiness rate. The documentation of learning gains shall meet the following criteria:

1. No change.
2. Testing procedures for each assessment shall be performed according to the publisher’s guidelines and assessment results shall be tabulated according to the publisher’s guidelines. The provider shall take appropriate measures to ensure the integrity of the testing process. The resulting data from the standardized assessment must be presented in a manner that is clear, concise and easily allows the reviewers to determine the achievement and progress made by the children who completed the VPK program. Applicant must submit a summary of the data using the Department’s VPK Good Cause Exemption Data Form VPK-GCE-01, (<http://www.flrules.org/Gateway/reference.asp?No=Ref-00031>) ~~March January~~ 2011, which is incorporated by reference herein.
3. No change.
4. The results of the assessment shall demonstrate substantial and appropriate learning gains by program completers. Learning gains are substantial and appropriate if the ratio of students making learning gains to the total number of students assessed is proportional to the ratio of students ready for kindergarten reflected in the current year’s readiness rate.

- (b) through (d) No change.
- (e) ~~Faithful~~ Adherence to an approved provider improvement plan under Section 1002.67(3)(c), F.S., following all steps towards improvement specified in the plan.

(2) No change.

(3) Application. A provider seeking a good cause exemption shall complete the Department’s VPK Good Cause Exemption Application Form VPK-GCE-02, (<http://www.flrules.org/Gateway/reference.asp?No=Ref-00032>) ~~March January~~ 2011, which is incorporated by reference herein. The submission of an application for a good cause exemption must adhere to the following:

(a) In addition to the application form, the provider must submit with the application supporting documentation meeting the criteria described in subsection (1) of this rule. The provider may submit additional documentation in support of its application.

(b) A fourth-year low performing provider may submit a good cause exemption application at any time after the release of the annual preliminary VPK Readiness Rates. Supporting documentation submitted with the application must include a review of adherence to the provider improvement plan, fidelity of implementation of the required curriculum pursuant to Section 1006.27(3)2., Florida Statutes, and feedback from the previous year Department’s site visits; however, The good cause exemption application and all supporting documentation must be received by the Department no later than fourteen (14) days after the timely filed provider acknowledgment of being a low-performing provider submitted pursuant to Rule 6A-1.099821, F.A.C.

(c) The Department may, ~~in its discretion,~~ grant an extension of time for submitting the good cause exemption application or supporting documentation for good cause shown. Good cause includes unavoidable circumstances such as illness or natural disaster, or excusable neglect.

(4) Department Review and Recommendation.

(a) through (c)5. No change.

(d)1. The Department shall issue a preliminary recommendation and report and provide a copy of it to the provider.

2. The provider may submit a written response to the Department’s preliminary recommendation and report within fourteen (14) days ~~one (1) week~~ of receipt.

3. The Department shall consider any timely response and revise the recommendation and report, if appropriate.

(5) State Board of Education Determination.

(a) through (e) No change.

(f) The Department will provide onsite review of adherence to the curriculum as approved in the provider provider’s improvement plan pursuant to Section 1002.67(3)(c), F.S., implementation of the VPK standards and research based instructional practices, and ensure that ongoing student progress monitoring is administered by all providers granted a good cause exemption.

Rulemaking Authority 1002.73(2), 1002.69(7) FS. Law Implemented 1002.67(3), 1002.69(7) FS. History–New\_\_\_\_\_.

In addition, Forms VPK-GCE-01 and VPK-GCE-02, have been amended in regards to the Certification Statement and the following has been added:

\* Please note that Section 837.06, Florida Statutes, provides that “[w]hoever knowingly makes a false statement in writing with the intent to mislead a public servant in the performance

of his or her official duty shall be guilty of a misdemeanor of the second degree, punishable as provided in Section 775.082 or Section 755.083, Florida Statutes.”

**DEPARTMENT OF EDUCATION**

**State Board of Education**

RULE NO.:	RULE TITLE:
6A-6.0981	School District Virtual Instruction Program

**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. 36, No. 46, November 19, 2010 issue of the Florida Administrative Weekly.

Form VSP-02, School District Virtual Instruction Program Application for Provider Approval has been revised to eliminate the requirement for a notarized signature on the Assurances signed by the applicant.

**BOARD OF TRUSTEES OF THE INTERNAL IMPROVEMENT TRUST FUND**

Notices for the Board of Trustees of the Internal Improvement Trust Fund between December 28, 2001 and June 30, 2006, go to <http://www.dep.state.fl.us/> under the link or button titled “Official Notices.”

**STATE BOARD OF ADMINISTRATION**

RULE NOS.:	RULE TITLES:
19-8.029	Insurer Reporting Requirements
19-8.030	Insurer Responsibilities

**NOTICE OF WITHDRAWAL**

Notice is hereby given that the above rules, which were noticed in Vol. 36, No. 50, December 17, 2010, Florida Administrative Weekly, have been withdrawn and replaced by a Notice of Proposed Rule addressing the above rules which was published on December 30, 2010, in Vol. 36, No. 52, Florida Administrative Weekly.

**DEPARTMENT OF CORRECTIONS**

RULE NO.:	RULE TITLE:
33-602.210	Use of Force

**NOTICE OF CORRECTION**

Notice is hereby given that the following correction has been made to the proposed rule in Vol. 36, No. 49, December 10, 2010 issue of the Florida Administrative Weekly.

SUMMARY: The proposed rule updates form references and organizational titles and clarifies Forms DC4-701C and DC4-650B. Form DC4-701C is amended to update terminology, and Form DC4-650B is amended to add the word “restraint” as follows: “Conditions that may be exacerbated by the use of chemical restraint agents include...”

The following paragraph was erroneously underlined in the Notice of Proposed Rulemaking:

~~(29)(f) DC4 711A, Refusal of Health Care Services, effective September 7, 2010.~~

**DEPARTMENT OF ENVIRONMENTAL PROTECTION**  
 Notices for the Department of Environmental Protection between December 28, 2001 and June 30, 2006, go to <http://www.dep.state.fl.us/> under the link or button titled "Official Notices."

**DEPARTMENT OF HEALTH**  
**Division of Emergency Medical Operations**

RULE NO.: 64J-2.010  
 RULE TITLE: Apportionment of Trauma Centers within a Trauma Service Area (TSA)

**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. 36, No. 42, October 22, 2010 issue of the Florida Administrative Weekly.

The Hearing for Rule 64J-2.010 – Apportionment of Trauma Centers within a Trauma Service Area scheduled for February 16, 2011 as noticed in the Florida Administrative Weekly on October 22, 2010, Vol. 36, No. 42, has been cancelled due to the Governor’s Executive Order 11-01. Section 3 of the executive order requires state agencies to suspend all rulemaking activities for a three month period until the Office of Fiscal Accountability and Regulatory Reform has been established and an analysis of the state agencies rules has been completed.

**Section IV**  
**Emergency Rules**

**DEPARTMENT OF REVENUE**

RULE NO.: 12ER11-1  
 RULE TITLE: Florida Tax Credit Scholarship Program

**SPECIFIC REASONS FOR FINDING AN IMMEDIATE DANGER TO THE PUBLIC HEALTH, SAFETY OR WELFARE:** Section 20, Chapter 2010-24, L.O.F., authorizes the Department of Revenue to promulgate an emergency rule, and to renew the emergency rule pending adoption of a permanent rule, to administer the provisions of the Florida Tax Credit Scholarship Program. This law authorizes the Department, and all conditions are deemed met, to adopt an emergency rule. This emergency rule establishes the Department’s administration of the Florida Tax Credit Scholarship Program. Procedures governing the approval of tax credit allocations and rescindments, the claiming of

allocated tax credits on a tax return, and the approval for carryforward tax credits to a subsequent tax year are included in this emergency rule.

**REASON FOR CONCLUDING THAT THE PROCEDURE IS FAIR UNDER THE CIRCUMSTANCES:** The Legislature expressly authorized in Section 20, Chapter 2010-24, L.O.F., the promulgation of an emergency rule, and to renew the emergency rule pending adoption of a permanent rule, by the Department of Revenue to administer the provisions of Chapter 2010-24, L.O.F. This law expanded the tax credits against corporate income tax and insurance premium tax previously established in Sections 220.187 and 624.51055, F.S., to establish the Florida Tax Credit Scholarship Program. Beginning July 1, 2010, taxpayers were allowed to apply for a credit allocation for contributions made to a nonprofit scholarship funding organization to receive a tax credit against excise taxes on liquor, wine, and malt beverages administered by the Division of Alcoholic Beverages and Tobacco of the Florida Department of Business and Professional Regulation. Beginning January 1, 2011, certain taxpayers were allowed to apply for a credit allocation to be taken as a tax credit against sales and use tax, and taxpayers who pay the tax on oil and gas production in Florida are allowed to apply for a credit allocation to be taken as a tax credit. This emergency rule establishes the procedures governing the approval of tax credit allocations and rescindments, the approval for carryforward tax credits to a subsequent tax year, and the procedures to be followed by taxpayers when claiming tax credits on tax returns. This emergency rule adopts those applications necessary to apply for an allocation of the credit and to rescind a previously awarded credit allocation.

**SUMMARY:** Emergency Rule 12ER11-01 (Florida Tax Credit Scholarship Program): (1) provides the taxpayers authorized under Chapter 2010-24, L.O.F., eligible to participate in the Florida Tax Credit Scholarship Program and when those taxpayers are authorized to participate in the Program; (2) requires eligible taxpayers to file an Application for Tax Credit Contributions to Nonprofit Scholarship Funding Organizations with the Department to receive a credit allocation from the tax cap authorized by the law for the 2010-2011 state fiscal year; (3) establishes the procedures the Department will use to notify an applicant of the taxpayer’s credit allocation; (4) provides that a contribution to an eligible nonprofit scholarship funding organization must be made by an eligible taxpayer prior to taking a tax credit on a tax return; (5) establishes procedures for taxpayers to carry forward a tax credit for a period of up to three years when a taxpayer’s tax liability is insufficient to take the full amount of the tax credit; (6) establishes procedures for taxpayers who are unable to use a credit allocation to submit an Application for Rescindment of Tax Credit Allocation to Nonprofit Scholarship Funding Organizations to rescind that credit and when those funds are eligible to other taxpayers for