

Section IV Emergency Rules

DEPARTMENT OF EDUCATION

State Board of Education

RULE NO.: RULE TITLE:
6AER12-1 Implementation of Florida’s System of School Improvement and Accountability – 2011-12 Writing Component

SPECIFIC REASONS FOR FINDING AN IMMEDIATE DANGER TO THE PUBLIC HEALTH, SAFETY OR WELFARE: School Grades as defined in Section 1008.34, F.S., are based on a combination of factors, including annual student writing proficiency as measured by the Florida Comprehensive Assessment Test (FCAT) writing for fourth, eighth, and tenth grades. Current Rule 6A-1.09981, F.A.C., awards credit to schools towards their school grades based upon the percentage of students scoring “4.0” or higher on FCAT writing. The 4.0 threshold is an increase from a previously designated threshold of 3.5. The manner in which the 2012 FCAT Writing assessment was scored changed from prior administrations for two reasons. First, the Department returned to the use of two raters to score each test rather than one, and second, the scoring rules required higher proficiency for each level than those in all prior years. When the increased threshold of 4.0 was established by rule, the State Board of Education did not have, and could not have had, impact data that would reflect how the scoring changes would impact the school grade calculations. Based on preliminary results of the 2012 writing assessment, applying the 4.0 threshold in addition to the heightened scoring mechanisms may have unforeseen adverse impacts upon school grades, warranting emergency review by the State Board of Education.

A school’s grade has wide-ranging impact for districts, parents, students, and tax-payers. It is necessary that school grades accurately and fairly reflect a school’s efforts and that the grades be released as soon as possible after the close of one school year to allow school districts time to prepare for the next school year. Preparations to be taken by school districts as a result of school grades include: contracting for services to poor performing schools; closing repeat, poor performing schools; shifting staff, students, and faculty; allocating special service cases, reallocating dollars appropriated through the Florida Education Finance Program; and providing opportunity scholarships to students attending failing schools.

There is not sufficient time to amend the rule by the non-emergency rulemaking procedures. Florida school districts must prepare for the 2012-13 school year between July 1 and August, when the 2012-13 school year starts, and school grades must be released well in advance. As a result, there is not time to make the change through normal rulemaking procedures.

REASON FOR CONCLUDING THAT THE PROCEDURE IS FAIR UNDER THE CIRCUMSTANCES: Because school begins in August, there is not sufficient time to amend the rule through non-emergency means before the start of the 2012-13 school year. The emergency rule was discussed and authorized at a State Board meeting held on May 15, 2012. The meeting was noticed and open to the public. Further, the emergency rule was published on the Department’s website, an email notice was provided to interested persons based upon the agency’s list-serve and the media were provided notice of the meeting, all in an effort to reach interested persons.

SUMMARY: The emergency rule awards credit to schools towards their school grades based upon the percentage of students scoring “3.0” or higher instead of “4.0” or higher on FCAT 2.0 writing.

THE PERSON TO BE CONTACTED REGARDING THE EMERGENCY RULE IS: Jane Fletcher, Interim Deputy Commissioner, Accountability, Research, and Measurement, 325 West Gaines Street, Tallahassee, Florida, (850)245-0437

THE FULL TEXT OF THE EMERGENCY RULE IS:

6AER12-1 Implementation of Florida’s System of School Improvement and Accountability – 2011-12 Writing Component.

Notwithstanding any other rule to the contrary, for 2011-2012 school grades, the student achievement component for the FCAT writing assessment shall be based on the student achievement scores, aggregated for each school, which indicate the percent of eligible students who score at or above FCAT Achievement Level 3.0 or higher on the FCAT writing assessment.

Rulemaking Authority 1001.02, 1008.22, 1008.34, 1008.345 FS. Law Implemented 1008.22, 1008.34, 1008.345, 1008.36 FS. History–New 5-15-12.

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: May 15, 2012

Section V Petitions and Dispositions Regarding Rule Variance or Waiver

WATER MANAGEMENT DISTRICTS

The South Florida Water Management District (District) hereby gives notice on May 10, 2012, the District’s Governing Board issued SFWMD Order No. 2012-051-DAO-ROW to Stewart Lee Mosher (Application No. 12-0123-3). The petition for waiver was received by the District on February 2, 2012. Notice of receipt of the petition requesting the waiver was