

NOTICE OF PROPOSED RULEMAKING

DEPARTMENT OF EDUCATION

Commission for Independent Education

RULE TITLE:

RULE NO.:

Actions Against A Licensee; Penalties

6E-2.0061

PURPOSE AND EFFECT: The Commission proposes the amendment to the rule to add grounds for disciplinary action, add the exemption for the disciplinary process during the investigation period until 10 days after the finding of probable cause, add the range that can be imposed for an administrative fine, notify institutions of costs as well as the time limit for paying the administrative fine and costs. Additionally, the citation process will be added designating the violations to which a citation can be issued.

SUMMARY: The rule is being amended to add grounds for disciplinary action, add the exemption for the disciplinary process during the investigation period until 10 days after the finding of probable cause, add the range that can be imposed for an administrative fine, notify institutions of costs as well as the time limit for paying the administrative fine and costs. Additionally, the citation process will be added designating the violations to which a citation can be issued.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST:

No Statement of Estimated Regulatory Cost was prepared. Any person who wishes to provide information regarding the statement of estimated costs, or to provide a proposal for a lower regulatory cost alternative must do so in writing within 21 days of this notice.

SPECIFIC AUTHORITY: 1005.32(7), 1005.31(1)(b), 1005.38(6) and (8), Florida

Statutes

LAW IMPLEMENTED: 1005.32(7), 1005.34(3), 1005.38, 1005.385, Florida Statutes

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING
WILL BE ANNOUNCED IN THE NEXT AVAILABLE FLORIDA ADMINISTRATIVE
WEEKLY.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Samuel
L. Ferguson, Executive Director, Commission for Independent Education, 325 W.
Gaines St., Suite #1414, Tallahassee, Florida 32399-0400.

THE PRELIMINARY TEXT FOR THE PROPOSED RULE MAKING IS:

6E-2.0061 Actions Against A Licensee; Penalties

(1) through(4)(i) no change

(j) Failure to notify the Commission of a change of address.

(k) Violating or repeatedly violating any provision of this chapter or any rule adopted pursuant thereto.

(l) Operating with a revoked, suspended, or inactive license.

(m) Violating any lawful order of the Commission previously entered in a disciplinary hearing or failing to comply with a lawfully issued subpoena.

(n) Failure of Licensee to notify the Commission of closing of a institution or campus.

(5) through(7)(c) no change.

(d) All investigatory records including the findings of an exempt probable cause panel meeting are exempt from F.S. 119.07(1) and s.24(a), Art. 1 of the State Constitution for a period not to exceed 10 days after the panel makes a determination regarding probable cause.

(e) The Commission will review the recommendation of the Probable Cause Panel. If probable cause is found, the Commission will issue an Administrative Complaint. The Commission also has the authority to issue an administrative fine from \$100-\$5000 per count. The Commission also has the authority to issue Cease and Desist orders as provided in Section 1005.08, F.S. if necessary to stop a violation.

(f) The Commission shall determine the amount of costs to be assessed after its consideration of an affidavit of itemized costs and any written objections thereto submitted to the Commission for Independent Education.

(g) In cases where the Commission imposes an administrative fine and an assessment of costs, each shall be paid within thirty (30) days from the date the final order of the Commission is filed with the Clerk of the Commission unless a different time frame is set forth in the final order.

(8) Issuance of Citations

(a) All citations will include a requirement that the subject correct the violation, if remediable within a specified period of time not to exceed 60 days, and impose whatever obligations will remedy the offense.

(b) The Commission shall be entitled to recover the cost of investigation and prosecution in addition to the fine levied pursuant to the citation.

(c) The citation becomes a final order of the Commission if the subject fails to dispute the issuance of the citation within 30 days of service. The subject has 30 days from the date the citation becomes final order to pay the fine and costs. Failure to pay the fine and costs within the prescribed time period constitutes a violation of Section 1005.385, F.S. which will result in further disciplinary action. All fines and costs are to be made payable to "Office of the Comptroller, Department of Education."

(d) Once the citation becomes a final order, the citation and complaint become a public record pursuant to Chapter 119, F.S. unless otherwise exempt from the provision of Chapter 119, F.S.

(e) The Executive Director will report to the Commission the number of citations issued and the nature of the offenses for which they were issued.

(f) Violations and Penalties for Citations. Citations shall be issued by the Executive Director for failure to meet procedural requirements of the Commission. For the purposes of this rule, the Commission designates as offenses for citations only the following violations with accompanying penalty:

1. Issuance of a worthless bank check to the Commission. \$100.00

2. Failure to notify the Commission of a change of address within time in violation of subsection 2.0061(j), F.A.C. \$500.00

3. Failure to notify the Commission of a minor modification of a program pursuant to subsection 2.008, F.A.C. \$250.00

4. Failure to meet the Commission deadlines within 30 days of the second request. \$100.00

5. Failure to report data to the Commission on a second request within 30 days of the second request. \$100.00.

6. Failure to submit the substantive change notification to the Commission as required by subsection 6E 1.003(49), F.A.C. \$500.00

7. Failure to provide access to employees of the Commission or a designee to inspect the institution for an on site visit. \$500.00

(8) through (10)(d) no change.

Specific Authority: 1005.32(7), 1005.38, Florida Statutes

Law Implemented: 1005.32(7), 1005.34(3), 1005.38, 1005.385, Florida Statutes

History: New - 10-13-83, Formerly 6E-2.061, Amended 5-20-87, 11-27-88,

11-29-88, 11-2-89, 12-10-90, 10-19-93, 1-7-03, 5-4-04, 5-26-04, 7-20-04,

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NAME OF PERSON ORIGINATING PROPOSED RULE: Commission for Independent
Education

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE:

Commission for Independent Education

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: December 1, 2005

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW:

December 9, 2005