

FLORIDA DEPARTMENT OF JUVENILE JUSTICE

Proposed Rule Hearing
August 10, 2016 (if requested)

CHAPTER 63F-12
DISPUTE RESOLUTION PROCESS

63F-12.001 Purpose, Scope and Definitions
63F-12.002 Dispute Resolution

63F-12.001 Purpose, Scope and Definitions.

(1) This rule chapter establishes dispute resolution procedures to be used when local government denies the department's request for modification after the local government has determined that a site for a juvenile justice facility proposed by the department or contracted provider is incompatible with local plans, ordinances or regulations. These procedures apply to initial siting as well as renovation of existing facilities and re-opening closed facilities. This will provide a flexible process to reconcile differences on planning and growth management issues that will: clearly identify and resolve problems as early as possible; provide for the appropriate involvement of affected and responsible parties; and provide process certainty to the extent possible.

(2) For the purpose of this rule chapter, the following words shall have the meanings indicated:

(a) "Initial proposal" is the request by the department or contracted provider for a determination by local government that a proposed site for a juvenile justice facility is appropriate for public use under applicable plans, ordinances or regulations.

(b) "Juvenile justice facility" is the physical location of any residential or nonresidential program designed to provide services to juveniles under chapters 984 or 985, Florida Statutes.

(c) "Local government" is the local entity with jurisdiction over the proposed site of a juvenile justice facility, and may include special districts, authorities or school boards.

(d) "Local plans, ordinances or regulations" include local comprehensive plans, local land use ordinances, local zoning ordinances or regulations, and other local ordinances in effect at the time the department or contracted provider makes a siting proposal.

(e) "Modification" includes a variance, rezoning, special exception, or any other action of local government to remove a legal barrier to a proposed siting.

(f) "Request for modification" is a letter from the department's Secretary or designee referencing this rule chapter, which is addressed to the relevant local government entity, seeking removal of a legal barrier to the proposed siting of a juvenile justice facility.

Rulemaking Authority 985.64, 985.682 FS. Law Implemented 985.682 FS. History—New

63F-12.002 Dispute Resolution

(1) If at any time within 90 days of the initial proposal, local government determines that construction, renovation or re-opening of a facility on the proposed site does not comply with a local plan, ordinance or regulation, the department shall have 10 days in which to submit a request for modification.

(a) The department's request for modification shall include the following:

1. Specific reference to the action sought, whether it be variance, rezoning, special exception or some other removal of a legal barrier to the requested siting;

2. Identification of the department representative who will serve as the point of contact for the request and any subsequent dispute resolution;

3. Specific reference to this rule and to section 985.682, F.S.;

4. Description of the department's ownership interest in the subject property or, if the department has no ownership interest, the fact that no such interest is required in order for the department to seek modification; and

5. Notice that lack of action on the request within 90 days of receipt by local government will result in the department taking an appeal to the Governor and Cabinet.

(b) The department shall be notified of any public hearing or proceeding held on its request for modification.

(2) Immediately upon local government's denial of the department's request for modification, an expedited dispute resolution

process shall commence.

(a) An initial settlement meeting between the parties shall be held within 10 days of the denial. If agreed by the parties, additional meetings may be held. The parties may also agree to have a neutral facilitator participate in additional meetings.

(b) At any settlement meeting, the parties shall: consider adding named parties, consider guidelines for participation, identify the issues to be addressed, present their concerns and constraints, explore options for a solution, and seek agreement.

(3) If the dispute is not resolved within 30 days of the denial, the parties may engage in mediation of the dispute with a mutually acceptable mediator.

(a) The mediator shall be guided by the Florida Rules for Certified and Court-Appointed Mediators.

(b) The costs of settlement meetings, facilitators, or mediation shall be split equally between the parties or according to another agreed upon allocation. The agreed upon cost allocation shall be documented in a written fee agreement.

(4) If the dispute is not resolved within 60 days of the denial, the department shall appeal the decision to the Governor and Cabinet.

(5) Upon the agreement of all parties, the time limits for dispute resolution may be extended. Under no circumstances may the process extend past 180 days from the denial of the department's request for modification.

Rulemaking Authority 985.64, 985.682 FS. Law Implemented 985.682 FS. History—New _____.