

RESOLUTION NO. 20R-08-171

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LAUDERHILL, FLORIDA, REQUESTING THAT THE FLORIDA LEGISLATURE AND THE GOVERNOR OF THE STATE OF FLORIDA TAKE ACTION TO PASS THE NECESSARY LEGISLATION TO AMEND THE FLORIDA STATUTES CHAPTER 112 AND CHAPTER 440 AND ANY OTHER RELEVANT PROVISIONS TO CREATE A PRESUMPTION THAT PANDEMICS, SUCH AS COVID-19, ARE COVERED OCCUPATIONAL EXPOSURES THAT ARE PRESUMED TO BE WITHIN THE LINE OF DUTY FOR FIRST RESPONDERS, LAW ENFORCEMENT OFFICERS, FIREFIGHTERS, EMERGENCY MEDICAL TECHNICIANS AND PARAMEDICS TO BE ENTITLED TO RECEIVE DEATH BENEFITS AND WORKER'S COMPENSATION BENEFITS; DIRECTING THE CITY CLERK TO PROVIDE A COPY OF THIS RESOLUTION TO THE APPROPRIATE OFFICIALS; PROVIDING FOR AN EFFECTIVE DATE (REQUESTED BY COMMISSIONER DENISE D. GRANT)

WHEREAS, COVID-19 ("Coronavirus") is not included in the list of occupational exposures or presumptions contained in Florida Statutes, Section 112.181 or 112.1815; and

WHEREAS, since COVID-19 was not known to even exist prior to now, it is understandable that it was not expressly listed within the statute for covered occupational exposures; however, due to the nature of the contagious pandemic to which first responders have a higher risk of exposure due to the nature of their work, it should be a covered exposure within the line of duty; and

WHEREAS, insurance companies have denied death benefit claims and worker's compensation have denied claims because COVID-19 is not enumerated in the list of occupational exposures and/or because there is not a presumption created that COVID-19 infections would be considered to be contracted in the line of duty (See Composite Exhibit "A" attached hereto and incorporated herein); and

WHEREAS, The Florida Department of Financial Services Officer of the Chief Financial Officer passed Directive 2020-05 to address this very issue on March 30, 2020 (Attached hereto as Exhibit "B" and incorporated herein); and

WHEREAS, this Financial Officer Directive 2020-05 clarifies that workers' compensation claims for "Frontline State Employees" who have tested positive for COVID-19 shall be processed as compensable claims for occupational disease pursuant to section 112.1815, Florida Statutes and Chapter 440, Florida Statutes unless the State can show by a preponderance of the evidence that the employee contracted COVID-19 outside his/her scope of employment as a *state employee*; and

WHEREAS, this Financial Officer Directive 2020-05 applies to "Frontline State Employees" which include first responders, law enforcement officers, firefighters, emergency medical technicians and paramedics; however, this Directive has been interpreted to have limited application to *only to State of Florida employees*; and

WHEREAS, the U.S. Department of Justice, Office of Justice Programs, Bureau of Justice Assistance (BJA) Public Safety Officers' Benefits Program (PSOB) provide, *inter alia*, death benefits to eligible survivors of public safety officers who are fatally injured in the line of duty; and

WHEREAS, the PSOB Act provides that conditions caused by infectious disease, viruses, and bacteria may be found to be an injury sustained in the line of duty; and

WHEREAS, the BJA, who administers the PSOB Act, has determined that it *will find that the evidence shows a public safety officer with COVID-19 contracted it in the line of duty* when:

- 1) The officer engaged in line of duty action or activity under circumstances that indicate that it was medically possible that the officer was exposed to the virus, SARS-CoV-2, while so engaged, and
- 2) The officer did contract the disease, COVID-19, within a time-frame where it was medically possible to contract the disease from that exposure (See Exhibit "C" attached hereto and incorporated herein); and

WHEREAS, in addition, the BJA has determined that in the absence of evidence showing a different cause of death, BJA generally will find that the evidence shows a public safety officer who died while suffering from COVID-19 died as a the direct and proximate result of COVID-19; and

WHEREAS, there is a gap which needs to apply these same presumptions as applied by the Financial Officer Directive (Ex. B) and the BJA

for PSOB claims (Ex. C) which determine that COVID-19 is considered to be contracted within the line of duty for ALL first responders as defined in 112.1815, law enforcement officers as defined in 943.10, firefighters as defined in 633.102 and emergency medical technicians and paramedics, for the purposes of all death benefits and worker's compensation benefits coverage; and

WHEREAS, the relevant sections of the Florida Statutes including but not limited to Chapter 112, specifically Sections 112.181 and 112.1815, as well as Chapter 440, Section 960.194, and any other applicable provisions that need to be amended to include these provisions relative to a presumption to be processed as a compensable claim for death benefits and/or workers compensation benefits;

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF LAUDERHILL, FLORIDA, THAT:

SECTION 1. The foregoing recitals contained in the preamble to this Resolution are incorporated by reference herein.

SECTION 2. The City Commission of the City of Lauderhill hereby request, support, and encourage the Governor of the State of Florida and the members of the Florida Legislature to take action to pass the necessary legislation to amend Florida Statutes, Chapter 112 (specifically 112.181 and 112.1815) and Chapter 440, Section 960.194 and any other relevant sections of the Florida Statutes that are necessary, to provide that first responders, law enforcement officers, firefighters, emergency medical technicians and paramedics who contract COVID-19 are to be entitled to a presumption that it was contracted within the line of duty for the purposes of death benefits and worker's compensation benefits, with a retroactive effective date of March 1, 2020 when the Department of Health was first taking actions regarding the current State of Emergency in the State of Florida relating to the COVID-19 pandemic.

SECTION 3. The City Commission hereby directs the City Clerk to transmit a copy of this Resolution to: The Governor; The Speaker of the House for the Florida House of Representatives; the President of the Senate for the Florida Senate; the Florida League of Cities, the Broward League of Cities, the Broward Chiefs of Police; the Broward Sheriff's Office, all cities in Broward County, the media; and any other interested party.

SECTION 4. This Resolution shall take effect immediately upon its passage.

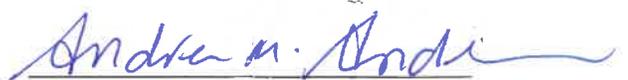
DATED this 31 day of August, 2020.

PASSED AND ADOPTED on first reading this 31 day of August, 2020.



PRESIDING OFFICER

ATTEST:



CITY CLERK

MOTION
SECOND

Bates

Campbell

M. BATES
H. BERGER
R. CAMPBELL
D. GRANT
K. THURSTON

Yes

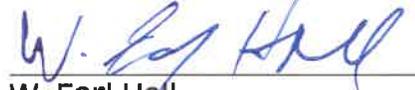
Yes

Yes

Yes

Yes

Approved as to Form



W. Earl Hall
City Attorney



City of Lauderhill

Attend via computer:
<https://www.colvcm.com>

File Details

City Hall
5581 W. Oakland Park
Blvd.
Lauderhill, FL, 33313
www.lauderhill-fl.gov

File Number: 20R-3780

File ID: 20R-3780	Type: Resolution	Status: Agenda Ready
Version: 1	Reference:	In Control: City Commission Meeting
		File Created: 08/20/2020
File Name: Line of Duty Presumption-Benefits		Final Action:

Title: RESOLUTION NO. 20R-08-171: A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LAUDERHILL, FLORIDA, REQUESTING THAT THE FLORIDA LEGISLATURE AND THE GOVERNOR OF THE STATE OF FLORIDA TAKE ACTION TO PASS THE NECESSARY LEGISLATION TO AMEND THE FLORIDA STATUTES CHAPTER 112 AND CHAPTER 440 AND ANY OTHER RELEVANT PROVISIONS TO CREATE A PRESUMPTION THAT PANDEMICS, SUCH AS COVID-19, ARE COVERED OCCUPATIONAL EXPOSURES THAT ARE PRESUMED TO BE WITHIN THE LINE OF DUTY FOR ALL FIRST RESPONDERS, LAW ENFORCEMENT OFFICERS, FIREFIGHTERS, EMERGENCY MEDICAL TECHNICIANS AND PARAMEDICS TO BE ENTITLED TO RECEIVE DEATH BENEFITS AND WORKER'S COMPENSATION BENEFITS; DIRECTING THE CITY CLERK TO PROVIDE A COPY OF THIS RESOLUTION TO THE APPROPRIATE OFFICIALS; PROVIDING FOR AN EFFECTIVE DATE (REQUESTED BY COMMISSIONER DENISE D. GRANT).

Notes:

Sponsors:

Enactment Date:

Attachments: RES-20R-08-171-Support-Line of Duty Death Benefits-WC legislation.pdf, Ex. A - CFO Directive 20-05 Division of Risk Management Final SIGNED.pdf, Ex. B1-Deputy Shannon Bennett died of COVID-19 but family denied line-of-duty insurance claim.pdf, Ex. B2- Insurance Denial.pdf, Ex. C-PSOB Act.png

Enactment Number:

Contact:

Hearing Date:

* **Drafter:** apetti@laudershill-fl.gov

Effective Date:

Related Files:

History of Legislative File

Ver- sion:	Acting Body:	Date:	Action:	Sent To:	Due Date:	Return Date:	Result:
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Text of Legislative File 20R-3780

RESOLUTION NO. 20R-08-171: A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LAUDERHILL, FLORIDA, REQUESTING THAT THE FLORIDA LEGISLATURE AND THE GOVERNOR OF THE STATE OF FLORIDA TAKE ACTION TO PASS THE NECESSARY LEGISLATION TO AMEND THE FLORIDA STATUTES CHAPTER 112 AND CHAPTER 440 AND ANY OTHER RELEVANT PROVISIONS TO CREATE A PRESUMPTION THAT PANDEMICS, SUCH AS COVID-19, ARE COVERED OCCUPATIONAL EXPOSURES THAT ARE PRESUMED TO BE WITHIN THE LINE OF DUTY FOR ALL FIRST RESPONDERS, LAW ENFORCEMENT OFFICERS, FIREFIGHTERS, EMERGENCY MEDICAL TECHNICIANS AND PARAMEDICS TO BE ENTITLED TO RECEIVE DEATH BENEFITS AND WORKER'S COMPENSATION BENEFITS; DIRECTING THE CITY CLERK TO PROVIDE A COPY OF THIS RESOLUTION TO THE APPROPRIATE OFFICIALS; PROVIDING FOR AN EFFECTIVE DATE (REQUESTED BY COMMISSIONER DENISE D. GRANT).

Request Action:

Pass a Resolution requesting the Governor and Florida Legislature to pass the necessary amendments to the Florida Statutes to create a presumption that pandemics, such as COVID-19) are covered occupational exposures that are presumed to be within the line of duty for ALL types of first responders to be entitled to receive death benefits and worker's compensation benefits.

Need:

To provide a presumption for coverage as within the line of duty for the purposes of death benefits and workers' compensation benefits.

Summary Explanation/ Background:

The current Florida Statutes do not adequately provide coverage for situations such as the COVID-19 pandemic whereby all types of first responders have an increased risk to contracting the corona virus due to the nature of their line of work. The list of covered exposures in 112.181 does not anticipate or include pandemics such as COVID-19. Therefore, insurance companies and worker's compensation carriers are denying coverage. The Chief Financial Officer of the State of Florida recognized this gap and passed a Directive 2020-05 to cover only STATE employees to provide that any covered defined "Frontline State Employee" who tests positive for COVID-19 shall be processed for worker's compensation claims as compensable claims for occupational disease pursuant to Section 112.1815 and Chapter 440, Florida Statutes, unless the State can prove by a preponderance of the evidence that the employee contracted COVID-19 outside his/her scope of employment as a State employee. This same presumption needs to be applied equally for ALL first responders, law enforcement officers, firefighters, emergency medical technicians, and paramedics. The Florida Statutes need to be amended to

provide an express presumption retroactive to March 1, 2020 which should apply going forward for any similarly unknown pandemics which may arise in the future as well.

Attachments:

Ex. A. - Chief Financial Officer Directive 2020-05

Composite Ex. B - Denial of Benefits for Shannon Bennett and C.P.

Ex. C - PSOB Act Presumption

Cost Summary/ Fiscal Impact:

Include projected cost, approved budget amount and account number, source of funds, and any future funding requirements

Estimated Time for Presentation:

Master Plan:

Goal 1: Clean, Green Sustainable Environment

- Increase mass transit ridership
- Reduce City energy consumption
- Reduce water consumption

Goal 2: Safe and Secure City of Lauderhill

- Crime in lower 50% in Broward
- Residents feel safe in neighborhood
- Reduce emergency fatalities

Goal 3: Open Spaces and Active Lifestyle for all ages

- Increase participation in youth sports
- Add new park land and amenities
- Increase attendance at cultural programs and classes

Goal 4: Growing Local Economy, Employment and Quality of Commercial Areas

- Increase commercial tax base
- Increase employment in Lauderhill businesses
- Decrease noxious and blighted uses in commercial areas

Goal 5: Quality Housing at all Price Ranges and Attractive Communities

- Neighborhood signs and active HOAs
- Housing & streets improved, litter reduced
- Increase proportion of single family homes and owner occupied housing

Goal 6: Efficient and Effective City Government, Customer Focused & Values Diversity

- Improves City efficiency
- Increase use of Information Technology
- Increases residents perception of Lauderhill as an excellent place to live

**FLORIDA DEPARTMENT OF FINANCIAL SERVICES
OFFICE OF THE CHIEF FINANCIAL OFFICER**

CHIEF FINANCIAL OFFICER DIRECTIVE 2020-05

WHEREAS, Novel Coronavirus Disease 2019 (COVID-19) is a severe acute respiratory illness that can spread among humans; and

WHEREAS, on March 1, 2020, the State Surgeon General and State Health Officer declared a Public Health Emergency exists in the State of Florida as a result of COVID-19; and

WHEREAS, numerous counties in Florida have positive cases for COVID-19, and COVID-19 poses a risk to the entire state of Florida; and

WHEREAS, the Governor issued Executive Order 20-52 on March 9, 2020, pursuant to the authority vested in him by Article IV, Section 1(a) of the Florida Constitution, the State Emergency Management Act, s. 252.31, Florida Statutes, *et al.*, as amended, and all other applicable laws, and declared a state of emergency for the State of Florida; and

WHEREAS, the Governor, in Executive Order Number 20-52, authorized each State agency to suspend the provisions of any regulatory statute of that agency, if strict compliance with that statute would in any way prevent, hinder, or delay necessary action in coping with this emergency; and **WHEREAS**, on March

24, 2020, the Governor issued Executive Order Number 20-83 directing the Surgeon General to issue a public health advisory urging persons over the age of 65 and persons with serious underlying medical conditions that place them at a high risk of severe illness from COVID-19 to stay home and take other measures as necessary to limit their risk of exposure to COVID-19; and

WHEREAS, Executive Order Number 20-83 directed the State Surgeon General and State Health Officer to issue a public health advisory urging those who can work remotely to do so; and

WHEREAS, on March 23, 2020, the Governor issued Executive Order 20-80 requiring, among other things, the screening of individuals whose point of departure originated outside the State of Florida in an area with substantial community spread, including the New York Tri-State Area; and

WHEREAS, members of the Florida National Guard have been activated in response to COVID-19, and are performing duties such as airport screenings, and COVID-19 test administrations, that require substantial contact with populations known or suspected to carry COVID-19; and

WHEREAS, the Division of Risk Management is housed within the Department of Financial Services, an agency headed by the Chief Financial Officer; and

WHEREAS, section 284.30, Florida Statutes, directs the Division of Risk Management to provide worker's compensation coverage on behalf of the State of Florida to certain state employees; and

WHEREAS, certain state employees, herein defined as "Frontline State Employees" perform critical functions, which cannot be deferred or performed remotely, and require substantial contacts with populations known or suspected of carrying COVID-19; and

WHEREAS, providing workers' compensation benefits to Frontline State Employees who contract COVID-19 will support their recovery, and speed their ability to resume functions critical to the State of Florida.

THEREFORE, BE IT RESOLVED THAT I, JIMMY T. PATRONIS JR., in accordance with the authority invested in me by Article IV, Section 4 of the Florida Constitution, Executive Order 20-52, and sections 17.30, 20.121(1), 497.103(8), Florida Statutes, hereby issue the following Directive:

Section 1. The Division of Risk Management shall process Workers' Compensation claims submitted by Frontline State Employees who have tested positive for COVID-19, through a reliable method, as compensable claims for occupational disease pursuant to section 112.1815, Florida Statutes, and Chapter

440, Florida Statutes, unless the State of Florida can show, by preponderance of the evidence, that a Frontline State Employee contracted COVID-19 outside his or her scope of employment as a state employee.

Section 2. For purposes of this Directive, the term “Frontline State Employee” shall include:

- a. First Responders, as defined in section 112.1815, Florida Statutes, including: law enforcement officers, as defined in section 943.10, Florida Statutes; firefighters, as defined in section 633.102, Florida Statutes; and emergency medical technicians or paramedics.
- b. Corrections officers, as defined in section 943.10, Florida Statutes, and other employees, whose official duties require physical presence in a state-operated detention facility.
- c. State Employees working in the healthcare field, whose duties require contact with persons as they are being tested for COVID-19 or otherwise known to be infected with COVID-19.
- d. Child Safety Investigators, whose duties require them to conduct welfare checks on behalf of minors.

- e. Members of the Florida National Guard, who are called to active duty for service in the State of Florida in response to COVID-19.

Section 3. The Division of Risk Management is further directed to process claims as set forth in Section 1. and Section 2. of this Order, without regard to whether any other non-compensable factor may have contributed to the Employee contracting COVID-19, and compensation shall not be reduced because of any other potential causative factors.

Section 4. The head of any executive or cabinet agency may opt-out of the provisions of this Directive by providing written notice to the Agency Clerk for the Department of Financial Services.

Section 5. This Directive shall remain in effect until rescinded by the Chief Financial Officer or superseded by Executive Order of the Governor.



IN TESTIMONY WHEREOF, I have hereunto set my hand and caused the Great Seal of the State of Florida to be affixed, this 30th day of March, 2020.

A handwritten signature in black ink, reading 'Jimmy Patronis, Jr.', written in a cursive style.

Signed, **Jimmy T. Patronis, Jr., Chief Financial Officer
State of Florida**

Deputy Shannon Bennett died of COVID-19 but family denied line-of-duty insurance claim

Ian Margol, Reporter

Published: June 26, 2020, 4:42 pm

Updated: June 26, 2020, 5:42 pm

Tags: Coronavirus, Broward County

PEMBROKE PARK, Fla.— In early April, Broward Sheriff's Office deputy Shannon Bennett was the first South Florida first responder to be killed by COVID-19.

His family was crushed by the loss. Now, they feel like they've been dealt another blow, after the AIG insurance company denied their claim for an accidental death in the line of duty.

"Essentially, while my family is grappling with trying to get our bearings back, this type of letter comes in and of course it floors us," said Darren Bennett, Shannon's brother.

Darren Bennett says the family was stunned to receive a letter in response to their claim, saying the company had reviewed it and determined that COVID-19 did not fall under the category of an injury or accident, but "rather, his death was caused in whole or in part by, or resulted in whole or in part from sickness or disease, specifically excluded under this policy."

Darren tells Local 10 that BSO submitted an appeal to the company on the family's behalf, but just a couple weeks later, the claim was denied a second time. The insurance company says that while Florida statutes do classify certain health conditions as "accidental and caused by employment" that doesn't technically include COVID-19.

"It was bad enough to have a family member, a loved one die, a brother, a best friend, a companion, a son, die, and then you add that **the political war that took place** with Sheriff Tony and Jeff Bell, and then you add that **the hateful and homophobic remarks by the chief in Davie** when curate that with all the emotions and just the trauma of trying to regain your composure and your bearings and now you get a letter, an insensitive letter, not even a phone call, but just a letter, telling you that this claim has been denied," Darren Bennett said. "The benefits that would be given to your family are not going to be given out."

Darren says it's not about the money anymore and "you can't put a price tag on Shannon's life." He just wants others to know what's going on.

"For us, it's about awareness," he said. "We want to make sure that any other agency that is partnering with AIG would potentially completely dismantle their relationship."

Local 10 News reached out to AIG, but they declined to comment.

8/20/2020

Deputy Shannon Bennett died of COVID-19 but family denied line-of-duty insurance claim

Broward Sheriff Gregory Tony released the following statement:

"One of the most difficult tragedies to endure in this profession is a line of duty death. We are committed to helping the Bennett family. We pay thousands of dollars each year for this insurance, and I'm extremely disappointed that AIG is denying this claim. We will exhaust all appeals. I have directed my command staff to review our contract with AIG. We hope as we have further dialogue with AIG, they recognize the global impact in [the] message that they are sending to our first responders."

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From: Trish Jenkins <PJenkins@bbpria.com>
Sent: Tuesday, July 28, 2020 7:44 AM
To: Susanne Joseph <SJoseph@Lauderhill-fl.gov>
Subject: RE: Lauderhill - line of duty death

CAUTION: This email originated from outside of the City of Lauderhill. Exercise caution when opening attachments or clicking links, especially from unknown senders.

Good Morning Susanne,

I heard from the underwriter regarding the COVID and line of duty death. She had a similar situation with another account and the statute does clearly address what situations are covered and COVID is not one of them. I attached the statute for your reference.

STAY HEALTHY and SAFE!!

If you should have any questions, please let me know.

Thank you,
Trish Jenkins, CPSR
Public Risk Specialist

pjenkins@bbpria.com

Direct (386) 239-4042 | O (386) 252-6176 | F (386) 239-4049

Public Risk Insurance Advisors
220 S. Ridgewood Avenue, Suite 210
Daytona Beach, FL 32114



PUBLIC RISK INSURANCE ADVISORS

bbpria.com



**PUBLIC SAFETY OFFICERS' BENEFITS PROGRAM
CORONAVIRUS / COVID-19 UPDATE
APRIL 2020**

Administered by the U.S. Department of Justice, Office of Justice Programs, Bureau of Justice Assistance (BJA), the Public Safety Officers' Benefits Program provides death benefits to the eligible survivors of public safety officers who are fatally injured in the line of duty, disability benefits to public safety officers catastrophically injured in the line of duty, and education benefits to the eligible spouses and children of fallen and catastrophically injured officers. BJA's PSOB Office is honored to review the more than 1,000 claims submitted each year on behalf of America's fallen and injured public safety heroes and their loved ones.

With the recent outbreak of the novel coronavirus disease, or COVID-19, America's law enforcement officers, firefighters, and other first responders face a new health risk as they continue to selflessly serve their communities.

Under the current Public Safety Officers' Benefits (PSOB) Act and its implementing regulations, conditions caused by infectious diseases, viruses, and bacteria may be found to be an injury sustained in the line of duty.

To establish eligibility for benefits under the PSOB Act in connection with a public safety officer's death or disability due to COVID-19, the PSOB Act and regulations require that the evidence show that it is *more likely than not* that the disease resulted from the public safety officer's exposure to the disease or the virus that causes the disease, SARS-CoV-2, while performing a line of duty activity or action. In general, BJA will find that the evidence shows a public safety officer with COVID-19 contracted it in the line of duty, when (1) the officer had engaged in line of duty action or activity under circumstances that indicate that it was medically possible that the officer was exposed to the virus, SARS-CoV-2, while so engaged; and (2) the officer did contract the disease, COVID-19, within a time-frame where it was medically possible to contract the disease from that exposure. In addition, in the absence of evidence showing a different cause of death, BJA generally will find that the evidence shows a public safety officer who died while suffering from COVID-19 died as the direct and proximate result of COVID-19.

As the PSOB Office receives claims based on COVID-19 exposure, it will work closely with survivors, officers, and agencies to obtain whatever evidence may be needed to support each claim, through all available information, including incident reports and related documents.

For questions regarding the PSOB Program or filing a claim, please do not hesitate to visit PSOB's online portal at www.psob.gov or email the PSOB Director at AskPSOB@usdoj.gov.

Guidance documents, like this document, are not binding and lack the force and effect of law, unless expressly authorized by statute or expressly incorporated into a contract, grant, or cooperative agreement. Consistent with Executive Order 13891 and the Office of Management and Budget implementing memoranda, the Department will not cite, use, or rely on any guidance document that is not accessible through the Department's guidance portal, or similar guidance portals for other Executive Branch departments and agencies, except to establish historical facts. To the extent any guidance document sets out voluntary standards (e.g., recommended practices), compliance with those standards is voluntary, and noncompliance will not result in enforcement action. Guidance documents may be rescinded or modified in the Department's complete discretion, consistent with applicable laws. Pursuant to section 3(b)(1)(I) of Executive Order 12988, nothing in this document is intended to create any legal or procedural rights enforceable against the United States, except as the same may be contained within 28 C.F.R. part 32.