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Title 67
SOCIAL SERVICES
Part I. General Administration

Chapter 1. Substance Abuse Testing

§101. Introduction and Purpose

A. The employees of the state of Louisiana are among the state's most valuable resources, and the physical and mental well-being of these employees is necessary for them to properly carry out their responsibilities. Substance abuse causes serious adverse consequences to users, impacting on their productivity, health and safety, dependents and co-workers, as well as the general public. Substance abuse on the job can cause undue risk of harm to the public in general and the children and other clients directly served by and dependent on the services of the Department of Social Services (DSS).

B. The state of Louisiana has a long-standing commitment to working toward an alcohol-free, drug-free workplace. In order to curb the use of illegal drugs by employees of the state of Louisiana, the Louisiana Legislature enacted laws which provide for the creation and implementation of drug testing programs for state employees.

C. The Department of Social Services fully supports these efforts and is committed to an alcohol-free, drug-free workplace.

AUTHORITY NOTE: Promulgated in accordance with R.S 49:1001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of the Secretary, LR 25:1145 (June 1999), amended by the Department of Social Services, Office of Management and Finance, LR 32:114 (January 2006), LR 35:967 (May 2009).

§103. Applicability

A. This policy shall apply to all employees of DSS including appointees and all other persons having any employment relationship with this agency.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:1001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of the Secretary, LR 25:1145 (June 1999).

§105. Definitions

Controlled Substance—a drug, chemical substance or immediate precursor in Schedules I through V of R.S. 40:964 or Section 202 of the Controlled Substances Act (21 U.S.C. 812).

Designer (Synthetic) Drugs—those chemical substances that are made in clandestine laboratories where the molecular structure of both legal and illegal drugs is altered to create a drug that is not explicitly banned by federal law.

Employee—unclassified, classified, and student employees, student interns, both paid and unpaid, and any other person having any employment relationship with the agency, regardless of the appointment type (e.g., full-time, part-time, temporary, etc.).

Illegal Drug—any drug which is not legally obtainable or which has not been legally obtained, to include prescribed drugs not legally obtained and prescribed drugs not being used for prescribed purposes or being used by one other than the person for whom prescribed.

Public Vehicle—any motor vehicle, water craft, air craft or rail vehicle owned or controlled by the state.

Reasonable Suspicion—belief based upon reliable, objective and articulable facts derived from direct observation of specific physical, behavioral, odorous presence, or performance indicators and being of sufficient import and quantity to lead a prudent person to suspect that an employee is in violation of this policy.

Safety-Sensitive or *Security-Sensitive*—a position determined by the appointing authority to contain duties of such nature that the compelling state interest to keep the incumbent drug-free outweighs the employee's privacy interests. Executive Orders Number KBB 2005-08 and KBB 2005-11 set forth the following non-exclusive list of examples of safety-sensitive and/or security-sensitive positions in state government:

1. positions with duties that may require or authorize the safety inspection of a structure;

2. positions with duties that may require or authorize access to a prison or an incarcerated individual;

3. positions with duties that may require or authorize carrying a firearm;

4. positions with duties that may allow access to controlled substances (drugs);

5. positions with duties that may require or authorize inspecting, handling, or transporting *hazardous waste* as defined in R.S. 30:2173(2) or *hazardous materials* as defined in R.S. 32:1502(5);

6. positions with duties that may require or authorize any responsibility over power plant equipment;

7. positions with duties that may require instructing or supervising any person to operate or maintain, or that may require or authorize the operating or maintaining, any heavy equipment or machinery;

8. positions with duties that may require or authorize the operation or maintenance of a public vehicle, or the supervision of such an employee.

Under the Influence—for the purposes of this policy, alcohol, a drug, chemical substance, or the combination of alcohol, a drug, chemical substance that affects an employee in any detectable manner. The symptoms or influence are not confined to that consistent with misbehavior, nor to obvious impairment of physical or mental ability, such as slurred speech or difficulty in maintaining balance. A determination of influence can be established by a professional opinion or a scientifically valid test.

Workplace—any location on agency property including all property, offices, facilities, vehicles and equipment, whether owned, leased or otherwise used by the agency or by an employee on behalf of the agency in the conduct of its business, in addition to any location from which an individual conducts agency business while such business is being conducted.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:1001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of the Secretary, LR 25:1145 (June 1999), amended by the Department of Social Services, Office of Management and Finance, LR 32:114 (January 2006).

§107. DSS Drug-Free Workplace Policy

A. It shall be the policy of DSS to maintain a drug-free workplace and a workforce free of substance abuse. Employees are prohibited from reporting for work, performing work, or otherwise being on any duty status for DSS with the presence in their bodies of alcohol, illegal drugs, controlled substances, or designer (synthetic) drugs at or above the initial testing levels and confirmatory testing levels as established in the contract between the state of Louisiana and the official provider of drug testing services. Employees are further prohibited from illegal use, possession, dispensation, distribution, manufacture, or sale of controlled substances, designer (synthetic) drugs, and illegal drugs at the work site and while on official state business, on duty or on call for duty.

B. To assure maintenance of a drug-free workforce, it shall be the policy of DSS to implement a program of drug testing in accordance with R.S. 49:1001 et seq., and all other applicable federal and state laws, and executive orders, as set forth below.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:1001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of the Secretary, LR 25:1146 (June 1999), amended by the Department of Social Services, Office of Management and Finance, LR 32:114 (January 2006), LR 35:967 (May 2009).

§109. Conditions Requiring Drug Tests

A. DSS shall require alcohol/drug testing under the following conditions.

1. Reasonable Suspicion. Any employee shall be required to submit to an alcohol/drug test if there is a reasonable suspicion (as defined in this policy) that the employee is using illegal drugs or is under the influence of alcohol while on duty. At least two supervisors/managers must concur there is reasonable suspicion before an employee is required to submit to an alcohol/drug test. Supervisors shall decide who will drive the employee to the testing site.

2. Post-Accident. Each employee involved in an accident that occurs during the course and scope of employment shall be required to submit to an alcohol/drug test if the accident:

a. involves circumstances leading to a reasonable suspicion of the employee's alcohol/drug use;

b. results in serious injury or a fatality; or

c. results in or causes the release of hazardous waste as defined in R.S. 30:2173(2) or hazardous materials as defined in R.S. 32:1502(5).

3. Rehabilitation Monitoring. Any employee who is participating in a substance abuse after-treatment program or who has a rehabilitation agreement with the agency shall be required to submit to periodic drug testing.

4. Pre-Employment. Each prospective employee shall be required to submit to drug screening at the time and place designated by the appointing authority or designee following a conditional job offer contingent upon a negative drug-testing result. A prospective employee who tests positive for the presence of drugs in the initial screening or who fails to cooperate in the testing shall be eliminated from consideration for employment. Employees transferring to DSS from other state agencies without a break in service are exempt from pre-employment testing.

5. Safety-Sensitive and Security-Sensitive Positions—Appointments and Promotions. Each employee who is offered a safety-sensitive or security sensitive position (as defined in this policy) shall be required to pass a drug test before being placed in such position, whether through appointment or promotion. (See §119 listing of these positions.)

6. Safety-Sensitive and Security-Sensitive Positions—Random Testing. Every employee in a safety-sensitive or security-sensitive position shall be required to submit to alcohol/drug testing as required by the appointing authority, who shall periodically call for a sample of such employees, selected at random by a computer-generated random selection process, and require them to report for testing. All such testing shall, if practicable, occur during the selected employee's work schedule.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:1001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of the Secretary, LR 25:1146 (June 1999), amended by the Department of Social Services, Office of Management and Finance, LR 32:114 (January 2006), LR 35:967 (May 2009).

§111. Procedure

A. Alcohol/drug testing pursuant to this policy shall be conducted for the presence of any illegal drugs including, but not limited to, cannabinoids (marijuana metabolites), cocaine metabolites, opiate metabolites, phencyclidine, and amphetamines in accordance with the provisions of R.S. 49:1001 et seq. DSS reserves the right to test employees for the presence of any alcohol, illegal drugs or controlled substance when there is a reasonable suspicion to do so.

B. The human resources director of each office shall be involved in any determination that one of the above-named conditions requiring alcohol/drug-testing exists. Upon such determination, the appointing authority or designee for each office shall notify the supervisor of the employee to be tested, who shall immediately notify the employee where and when to report for the testing.

C. Testing services shall be performed by a provider chosen by the Office of State Purchasing, Division of Administration, pursuant to applicable bid laws. At a minimum, the testing service shall assure the following.

1. All specimen collections will be performed in accordance with applicable federal and state regulations and guidelines to ensure the integrity of the specimens and the privacy of the donors. The appointing authority or designee for each office shall review and concur in advance with any decision by a collection site person to obtain a specimen under direct observation. All direct observation shall be conducted by a collection site person of the same gender.

2. Chain of custody forms must be provided to ensure the integrity of each urine specimen by tracking its handling and storage from point of collection to final disposition.

3. Testing shall be performed by a SAMSHA-certified (Substance Abuse Mental Services Health Administration) laboratory.

4. The laboratory shall use a cut-off of 50 ng/ml for a positive finding in testing for cannabinoids.

5. The laboratory shall use a concentration cut-off of 0.08 or more for the initial positive finding in testing for alcohol.

6. All initial positives reported by the laboratory must be confirmed by gas/chromatography/mass spectrometry.

7. All confirmed positive results of alcohol/drug testing shall be reported by the laboratory to a qualified medical review officer.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:1001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of the Secretary, LR 25:1146 (June 1999), amended by the Department of Social Services, Office of Management and Finance, LR 32:115 (January 2006), LR 35:967 (May 2009).

§113. Confidentiality

A. All information, interviews, reports, statements, memoranda, and/or test results received by DSS through its alcohol/drug testing program are confidential communications, pursuant to R.S. 49:1012, and may not be used or received in evidence, obtained in discovery, or disclosed in any public or private proceedings, except in an administrative or disciplinary proceeding or hearing, or civil litigation where drug use by the tested individual is relevant. These records will be kept in a locked confidential file just as any other medical records are retained.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:1001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of the Secretary, LR 25:1147 (June 1999), amended by the Department of Social Services, Office of Management and Finance, LR 32:115 (January 2006).

§115. Responsibilities

A. The Secretary of DSS is responsible for the overall compliance with this policy and shall submit to the Office of the Governor, through the Commissioner of Administration, a report on this policy and drug testing program; describing the process, the number of employees affected, the categories of testing being conducted, the associated costs of testing, and the effectiveness of the program by December 1 of each year.

B. The appointing authority or designee is responsible for administering the alcohol/drug testing program; determining when drug testing is appropriate; receiving, acting on, and holding confidential all information received from the testing services provider and from the medical review officer; and collecting appropriate information necessary to agency defense in the event of legal challenge.

C. All supervisory personnel are responsible for assuring that each employee under their supervision is aware of and understands this policy.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:1001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of the Secretary, LR 25:1147 (June 1999), amended by the Department of Social Services, Office of Management and Finance, LR 32:115 (January 2006), LR 35:967 (May 2009).

§117. Violation of the Policy

A. Positive Test Result. All initial screening tests with positive results must be confirmed by a second more accurate test with the results reviewed by a medical review officer. Any breath test resulting in 0.08 alcohol concentration will be considered an initial positive result. In these cases, the confirmation test will be performed within 30 minutes, but not less than 15 minutes, of completion of the screening test. Urine samples will be tested using the split sample method, with the confirmation test performed on the second half of the sample in the event of an initial positive result. Any employee reported with a confirmed positive test shall either be suspended with pay pending investigation or shall have the safety/security sensitive duties removed from his/her position pending preparation and approval of disciplinary action up to and including dismissal.

At a minimum the following actions will be taken in the instance of a first confirmed positive test.

1. The employee shall be subject to disciplinary action as determined by the appointing authority.

2. The employee must meet with an approved chemical abuse counselor for a substance abuse evaluation. The employee must release the substance abuse evaluation prior to returning to duty. The evaluation will become part of the follow-up plan for that employee to continue employment with the department.

3. The employee shall be screened on a periodic basis for not less than 12 months nor more than 60 months. Follow-up testing, return to duty testing, counseling and any other recommended treatment will be at the cost of the employee and not the department. Post accident or return to duty tests which are positive will result in the employee's dismissal.

B. Refusal to Test

1. Any employee refusing to submit to a breath test for the presence of alcohol or a urine test for the presence of drugs will be subject to the consequences of a positive test. A refusal is defined as a verbal refusal, abusive language to the supervisor or personnel performing the test, or tampering of any sample, container, equipment or documentation of the sampling process. If a test is determined to be invalid, it is not considered a refusal and no disciplinary action will be taken. Inability to perform the testing procedures must be documented by a medical physician and recorded in the employee's personnel file.

2. If an employee alleges that, because of medical reasons, he/she is unable to provide a sufficient amount of breath to permit a valid breath test, the Breath Alcohol Technician (BAT) will instruct the employee to try a second time to provide an adequate amount of breath. If an employee is unwilling to submit to the test, then the results of the test will be subject to the consequences of a positive test. If an employee is unable to provide a sufficient quantity of urine, the collector will discard the insufficient specimen and instruct the individual to drink up to 40 ounces of fluid, distributed reasonably through a period of up to three hours, or until the employee has provided a new urine specimen. If the employee remains unable to provide a sufficient specimen, the collector must discard the insufficient specimen, discontinue testing and notify the agency human resources director or his/her designee of his/her actions. In these instances, the agency human resources director or his/her designee shall inform the appointing authority immediately. The appointing authority shall direct the employee to have a medical evaluation, within five working days (at the agency's expense) conducted by an agency selected licensed physician with expertise in the medical issues surrounding a failure to provide a sufficient specimen. The physician will provide to the appointing authority, a report of his/her conclusions as to whether the employee's inability to provide a sufficient specimen is genuine or constitutes a refusal to test. If the conclusion of refusal to test is reached, it will be subject to the consequences of a positive test.

C. Reasonable Suspicion of Adulterated/Substituted Sample. A specimen temperature that measures outside the range of 90 to 100 degrees Fahrenheit constitutes a reason to believe that an employee has adulterated or substituted the specimen. The collector must immediately conduct a new collection using direct observation procedures.

D. Challenging Test Results. If a current or prospective employee receives a confirmed positive test result, he/she may challenge the test results within 72 hours of actual notification, with the understanding that he/she may be placed on suspension pending investigation, until the challenge is resolved. A written explanation of the reason for the positive test result may be submitted to the medical review officer. Employees who are on legally prescribed and obtained medication for a documented illness, injury or ailment will be eligible for continued employment upon receiving clearance from the medical review officer.

E. Other Violations. Each violation and alleged violation of this policy will be handled on an individual basis, taking into account all data, including the risk to self, fellow employees, clients, and the general public.

F. Failure to comply with provision of the policy, including but not limited to, the following, will be grounds for disciplinary action:

1. an employee is subject to disciplinary action up to and including dismissal should a criminal drug statute conviction result from the unlawful manufacture, distribution, possession, or use of a controlled substance in the workplace;

2. refusal or failure to report to an approved counseling or rehabilitation program after voluntarily requesting help for drug addiction;

3. refusal or failure to report to an approved counseling or rehabilitation program, if advised by the department to do so, after a confirmed positive test for any substance prohibited by this policy;

4. leaving a treatment program prior to completion and not being properly released to return to work.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:1001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of the Secretary, LR 25:1147 (June 1999), amended by the Department of Social Services, Office of Management and Finance, LR 32:115 (January 2006), LR 35:968 (May 2009).

§119. Attachment A—Safety-Sensitive and Security-Sensitive Positions within DSS

A. A candidate for one of the following positions will be required to pass a drug test before being placed in such a position, whether through appointment or promotion and employees who occupy these positions will be subject to random alcohol/drug testing.

Louisiana Rehabilitation Services	Administrative Specialist A (Position 060871) Client Services Worker Rehabilitation Aide
Office of Family Support	Social Services Analyst 1 & 2 (All positions in Support Enforcement) Social Services Analyst Supervisor (All positions in Support Enforcement) Support Enforcement District Manager 1 & 2 Support Enforcement Regional Administrator
Office of Community Services	Administrative Coordinator 3 (Positions in Field Services - Parish and Regional Offices) Administrator Coordinator 2 (Positions in Field Services - Parish and Regional Offices) Child Welfare Services Assistant Trainee Child Welfare Services Assistant Child Welfare Counselor/Adoption Child Welfare Specialist 1 Child Welfare Specialist 2 Child Welfare Specialist 3 Child Welfare Specialist 4 Child Welfare Specialist Trainee Social Service Counselor 1 Social Service Counselor 2
Office of the Secretary/Office of Management and Finance	Accountant 3 (178446) Administrative Coordinator 1 (002112, 002913) Administrative Coordinator 2 (001979) Auditor Supervisor (124684) Licensing Specialist 1 - DSS Licensing Specialist 2 -.DSS

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:1001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of the Secretary, LR 25:1148 (June 1999), amended by the Department of Social Services, Office of Management and Finance, LR 32:116 (January 2006).

§121. Attachment B—Procedures for Scheduling Drug Testing

A. On a yearly basis a percentage of all DSS employees in safety-sensitive or security-sensitive positions will be randomly drug-tested. One-twelfth of that number will be scheduled each month.

1. A computerized system will randomly select a designated number of employees.

2. Each month the appropriate managers will be notified by human resources of the names of employees in their office location randomly selected to be drug-tested. The names of employees to be tested must be kept confidential at all times.

3. Based on each individual employee's schedule, at the earliest possible date within the designated month, the appropriate manager will notify the employee in writing first thing in the morning that they must report to a designated lab for testing. Human resources must be notified if an employee is on extended leave.

4. Each employee must go to the designated lab within 24 hours of being notified.

5. The office human resources personnel will be notified of the results of the tests. All test results must be kept confidential and retained in a locked file cabinet.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:1001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of the Secretary, LR 25:1148 (June 1999), amended LR 35:968 (May 2009).

Chapter 2. Criminal Background and State Central Registry Checks

§201. Introduction and Purpose

A. The Department of Children and Family Services (DCFS) has a fervent commitment to protect children by preventing the employment by the department of an individual who has specific past criminal convictions, in positions whose duties include the investigation of child abuse or neglect, supervisory or disciplinary authority over children, direct care of a child, or performance of licensing surveys and/or has been determined to be a perpetrator of abuse or neglect of a child and listed on the state central registry.

B. In order to enhance the state's ability to protect children, the Louisiana Legislature enacted laws which provide for state and federal criminal background checks and a state central registry check for certain DCFS employees and potential employees.

C. The department will utilize the state central registry of justified (valid) reports of abuse or neglect for clearances of certain current and potential department employees, and will prohibit these individuals from being employed or considered for employment in those positions whose duties include the investigation of child abuse or neglect, supervisory or disciplinary authority over children, direct care of a child, or performance of licensing surveys when their name is recorded on the state central registry subsequent to January 1, 2010 and when their administrative appeal rights have been exhausted.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:51.2.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of the Secretary, LR 36:851 (April 2010), amended by the Department of Children and Family Services, Division of Child Welfare, LR 44:997 (June 2018), effective July 1, 2018.

§203. Conditions of Employment

A. No individual shall be hired by the department whose duties include the investigation of child abuse or neglect, supervisory or disciplinary authority over children, direct care of a child, or performance of licensing surveys, until the following conditions are met.

1. The individual submits his fingerprints to the Louisiana Bureau of Criminal Identification and Information to facilitate a state and national criminal records check and it is determined that the person has not been convicted of or pled nolo contendere to a crime listed in R.S. 15:587.1(C).

2. The department has conducted a search of the state central registry and determined that the individual's name has not been recorded subsequent to January 1, 2010.

3. If the potential employee's name is recorded on the state central registry subsequent to January 1, 2010 and prior to August 1, 2018, they shall not be denied consideration for employment until the potential employee has exhausted their right to an administrative appeal and thereafter the potential employee's name is confirmed to be listed on the state central registry.

4. If the individual's name is recorded on the state central registry as a perpetrator of child abuse or neglect subsequent to August 1, 2018, they shall not be employed or considered for employment by the department in positions whose duties include the investigation of child abuse or neglect, supervisory or disciplinary authority over children, direct care of a child, or performance of licensing surveys.

B. Any current employee of the department whose duties include the investigation of child abuse or neglect, supervisory or disciplinary authority over children, direct care of a child, or performance of licensing surveys and whose name is recorded subsequent to January 1, 2010 and prior to August 1, 2018, shall not be terminated from their position in the department until the employee has exhausted their right to an administrative appeal and thereafter the employee's name is confirmed to be listed on the state central registry. If the employee's name is recorded on the state central registry subsequent to August 1, 2018, they shall be terminated from their current position whose duties include the investigation of child abuse or neglect, supervisory or disciplinary authority over children, direct care of a child, or performance of licensing surveys by the department.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:51.2.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of the Secretary, LR 36:851 (April 2010), amended by the Department of Children and Family Services, Division of Child Welfare, LR 44:997 (June 2018), effective July 1, 2018, amended LR 45:217 (February 2019).

§205. Criminal History Records Checks for Access to Federal Tax Information

A. Purpose

1. As required by the IRS statute found at 26 USCS 6103(p)(4) and its supplemental publication 1075, the Department of Children and Family Services(DCFS) will conduct fingerprinting, along with national, state and local criminal history record checks on all individuals handling and those who may handle Federal Tax Information (FTI). The criminal history record checks will be used to determine the suitability of individuals to access FTI in performance of their job duties or services for the Department of Children and Family Services.

B. Applicability

1. Pursuant to R.S. 46:51.3, this regulation applies to all current and prospective employees, contractors, or subcontractors of the office of family support or child support enforcement that have access to federal tax information (FTI). This provision shall also apply to employees of contractors or subcontractors of the office of family support or child support enforcement who require access to FTI.

C. Definitions

Criminal History Record Check—a review of an individual's criminal history using fingerprints sent to the Louisiana Bureau of Criminal Identification and Information for submission to the Federal Bureau of Investigation (FBI) and compilation of data from state and local law enforcement agencies.

Federal Tax Information (FTI)—consists of federal tax returns and return information (and information derived from it) that is in the department's possession or control which is covered by the confidentiality protections of the Internal Revenue Code and subject to its safeguarding requirements, including IRS oversight.

FTI Suitable (no reports)—an employee, contractor or subcontractor whose criminal history records check results in a report containing no information and who is permitted to access FTI in the performance of his duties, function or service to the department.

FTI Suitable (with reports)—an employee, contractor or subcontractor whose criminal history records check results in a report containing criminal cases, convictions, or arrests and access to FTI for the performance of his duties, functions or service of the department is permitted after determination.

FTI Unsuitable—an employee, contractor or subcontractor whose criminal history records check results in a report containing criminal cases, convictions or arrests who deemed not suitable to access federal tax information in the performance of his duties, function or service of the department after determination.

D. General Provisions

1. All current or prospective employees, contractors, or subcontractors within the office of family support and child support enforcement requiring access to FTI shall be required to submit to a criminal history records check by providing authorization, fingerprints and other identifying information to DCFS.

2. Fingerprints and other identifying information shall be submitted to the Louisiana Bureau of Criminal Identification and Information for performance of the criminal history records check.

3. The department may request local criminal history from any jurisdiction where the current or prospective employee, contractor, or subcontractor has lived, worked, or attended school.

4. Criminal history records checks shall be used by the department to determine the suitability of current or prospective employees, contractors, or subcontractors within the office of child support enforcement and family support sections to access FTI and records.

a. Prospective employees shall be subject to criminal history records checks only after a conditional offer of employment has been made.

b. Current employees, contractors and subcontractors shall be subject to fingerprinting and national, state, and local criminal history records checks, at a minimum of every 10 years.

c. Criminal history record checks on prospective contractors or prospective employees of contracts must be performed prior to obtaining access to FTI.

5. The costs of providing the criminal history records check for current employees, contractors, or subcontractors within the office of child support enforcement and family support shall be charged to the department by the Louisiana Bureau of Criminal Identification and Information for furnishing information contained in its criminal history and identification files, including any additional costs of providing the national and local criminal history records checks, which pertains to the current or prospective employee, contractor or subcontractor.

E. Suitability Standards

1. Any criminal history record check resulting in a report containing criminal cases, convictions, or arrests must receive a case by case assessment.

2. The case by case assessment must consider:

a. the nature of the offense;

b. the relation of the offense to the duties of the employee, contractor or subcontractor;

c. any aggravating or mitigating circumstances, including the passage of time; and

d. any evidence of rehabilitation of the subject or the lack thereof.

3. An individual is deemed to be FTI suitable or FTI unsuitable based on the following table.

Criminal History Record Check Result	**FTI Access Determination**
No Reports	
Report resulting from criminal history records check contains no information.	FTI Suitable
Reports	
A case-by-case assessment must be performed.	
Reports of criminal cases, convictions, arrests or serious misconduct that includes but is not limited to: • Misappropriation Crimes (as designated in Louisiana Revised Statutes) • Computer Related Crimes (as designated in Louisiana Revised Statutes) • Offenses Affecting Organized Government, subparts B through F (as listed in Louisiana Revised Statutes) • Tax, Alcohol Beverage, Tobacco or Charitable Gaming offenses where the federal or state statute exposes the offender to a penalty of imprisonment with or without hard labor. Compelling mitigation documentation to show the offense irrelevant to duties of the position or FTI suitability may be provided during appeal.	FTI Unsuitable
No reports of open criminal cases, convictions, or arrests with relevance to the duties of the position requiring access to FTI. Reports of open criminal cases, convictions, or arrests related to the duties of the position or access to FTI but compelling mitigation documentation has been provided during appeal.	FTI Suitable (with reports)

F. Impact of Suitability Determination

1. Individuals who have been deemed FTI suitable (no reports) or FTI suitable (with reports) will be able to exercise one of the options below that is applicable to their status:

a. continue to or be allowed to access FTI in the performance of job duties;

b. continue to or be allowed to access FTI in the performance of job duties with special restrictions or caveats; or

c. be considered for a vacant position with FTI access.

2. If a current or prospective employee, contractor or subcontractor has been deemed FTI unsuitable, the department will exercise one of the options below:

a. access or use of FTI will immediately be denied, suspended or prevented;

b. the job offer may be rescinded;

c. the contract may be terminated; or

d. the contractor or subcontractor's employee may be removed or prohibited from performing work on the contract.

3. A determination of FTI unsuitable may be appealed using the procedures outlined in Subsection G of this Section.

4. A successful appeal is the only mechanism in which the impact of a FTI unsuitable determination can be avoided.

G. Appeal Procedures

1. In the event the criminal history record check reveals information that leads to a determination of FTI unsuitable for a current or prospective department employee, contractor or subcontractor, the impacted person will be notified. This notification will also inform the impacted person of their right to challenge the accuracy of the criminal history record check.

2. The impacted person will have 30 days to present documentation to refute or mitigate the determination.

3. The department will review the documentation and notify the impacted person of its determination. The department may also use this information to request a new or updated criminal history record check, if allowed by the national, state and/or local law enforcement agencies.

AUTHORITY NOTE: Promulgated in accordance with Act 147 of the 2017 Regular Legislative Session.

HISTORICAL NOTE: Promulgated by the Department of Children and Family Services, Child Support Enforcement Section, LR 45:651 (May 2019), LR 46:1543 (November 2020).

Title 67
SOCIAL SERVICES
Part III. Economic Stability
Subpart 1. General Administrative Procedures

Chapter 1. Confidentiality

§101. Release of Confidential Information

A. Information of the Department of Social Services pertaining to financial assistance programs may be released in accordance with the federal laws and regulations governing the release of information of the Financial Assistance Programs.

B. Applicable federal laws include:

1. Social Security Act—Sec. 1106 (42 U.S.C. 1306);

2. Freedom of Information Act (5 U.S.C. 552 added by P.L. 90-23 and amended by P.L. 93-502 and P.L. 94-409);

3. Privacy Act of 1974 (5 U.S.C. 552a), P.L. 93-579;

4. Drug Abuse Office and Treatment Act (P.L. 92-255, 21 U.S.C. 1175) as amended by the Comprehensive Alcohol and Alcoholism Prevention, Treatment and Rehabilitation Act Amendment of 1974 (P.L. 93-282) (42 U.S.C. 4582) Section 6103 of the Internal Revenue Service Code (26 U.S.C. 6103), as amended by the Tax Reform Act of 1976 (P.L. 94-455);

5. "Government in the Sunshine Act" (P.L. 94-409);

6. The Family Education Right and Privacy Act (FERPA) (P.L. 93-568);

7. HHS Public Information Regulation (45 CFR Part 5);

8. HHS Privacy Act Regulations (45 CFR Part 5b);

9. SSA Regulation No. 1 (20 CFR Part 401);

10. SSA Regulation No. 22 (20 CFR Part 422);

11. The Tax Reform Act;

12. The Right to Financial Privacy Act of 1978;

13. Part B, Title XVI of the Federal Coal Mine and Safety Act;

14. 7 CFR Part 272.1(c)—Disclosure (food stamps);

15. 45 CFR Part 431 Subpart F—Safeguarding Information on Applicants and Recipients;

16. 45 CFR Part 74 Subpart D—Retention and Access;

17. Part 74.25 Restrictions on Public Access;

18. Part 205.50—Safeguarding Information (FITAP);

19. Part 302.15—State Plan Requirements—Reports and Maintenance of Records;

20. Part 303—Standards for Program Operations;

21. Part 303.2—Maintenance of Case Records;

22. Part 303.21—Safeguarding Information;

23. Part 305—Audit and Penalty;

24. Part 305.35—Reports and Maintenance of Records;

25. the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (P.L. 104-193).

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:56(A), (B), (C), (E), (F) (4), and (H).

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Eligibility Determinations, LR 16:321 (April 1990), amended by the Department of Social Services, Office of Family Support, LR 23:79 (January 1997).

§103. Confidential Information

A. Applications for assistance and information contained in case records of clients of the Division of Family Services of the Louisiana Health and Human Resources Administration shall be confidential and it shall be unlawful for any person to solicit, disclose, receive, make use of, or to authorize, knowingly permit, participate in, or acquiesce in the use of applications or client case records or the information contained therein for any purpose not directly connected with the administration of the Family Services Program.

B. Publication of lists of names of clients or applicants is prohibited.

C. The following information shall not be subject to waiver, and shall not be released to applicants, recipients, or outside sources, except those outside sources engaged in the administration of the Family Services Program:

1. records pertaining to foster care of children, investigations of abuse or neglect of children, and other child welfare services;

2. information furnished to the Division of Family Services by persons, governmental agencies, or other legal entities when such furnisher of information is subject to a confidentiality statute or regulation which prohibits release of such information to an outside source. For this provision to be applicable the limitations of the furnisher's confidentiality statute should be indicated on the material;

3. information in case records pertaining to the Food Stamp Program except that state agencies may make available upon request to any federal, state or local law enforcement officer, the address, Social Security number, and (if available) photograph of a food stamp recipient if the

officer furnishes the recipient's name and notifies the agency that the individual is fleeing to avoid prosecution, custody, or confinement for a felony, is violating a condition of parole or probation, or has information necessary for the officer to conduct an official duty related to a felony/parole violation;

4. information contained in applications for assistance and case records that is furnished to all enforcement agencies or courts to aid in the prosecution of criminal offenses related to any family services program;

5. information pertaining to adoption of children shall be strictly confidential and shall only be released to courts of competent jurisdiction in accordance with existing laws;

6. information pertaining to foster care of children, reports and investigations on abuse or neglect of children, and records of other child welfare services, shall not be subject to subpoena in any judicial proceeding for legal separation, for divorce, or for custody of children incidental to a proceeding for legal separation or divorce, and in the event of the issuance of a subpoena for such information, or for any representative or employee of the Louisiana Health and Human Resources Administration to testify concerning an applicant or client in any such proceeding, the court's attention shall be called to this.

D. Confidential information may be released to an outside source, not directly connected with the administration of family services programs, only upon written request of the outside source and only after written waiver by the applicant, client, or his legal representative, governmental authorities, the courts, and law enforcement agencies shall be considered the same as any other outside source. Confidential information may be released to an applicant, client, or his legal representative, provided that the applicant, client, or legal representative will be required to complete and sign a written waiver.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:65, 7 CFR 273.2; P.L. 104-193.

HISTORICAL NOTE: Promulgated by the Health and Human Resources Administration, Division of Family Services, LR 2:36 (January 1976), amended by the Department of Social Services, Office of Family Support, LR 23:79 (January 1997).

Chapter 2. Voter Registration Services

§201. Voter Registration by Mail

A. The Department of Children and Family Services (DCFS) as administrator of the Supplemental Nutrition Assistance Program (SNAP) and the Family Independence Temporary Assistance Program is a designated voter registration agency.

B. In accordance with the guidelines of federal and state voter registration acts, parish offices shall provide to applicants and participants of these programs the opportunity to register to vote by providing the mail voter registration application form, and making available assistance to complete the application process unless an applicant refuses such assistance.

C. Parish offices shall accept and mail, or otherwise submit, state voter registration forms to their appropriate registrar of voters.

AUTHORITY NOTE: Promulgated in accordance with R.S. 18:116 and P.L. 103-31, amended in accordance with P.L. 110-246.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 21:273 (March 1995), amended LR 21:958 (September 1995), amended by the Department of Children and Family Services, Economic Stability and Self-Sufficiency Section, LR 36:2524 (November 2010).

Chapter 3. Hearings

§301. Definitions

A. For all purposes of these rules and regulations, the terms defined in this Chapter shall have the following meanings, unless the context of use clearly indicates otherwise.

Administrative Disqualification Hearing—an administrative hearing to determine if an intentional program violation occurred.

Administrative Law Judge (ALJ)—an impartial individual responsible for conducting a fair hearing and issuing a recommended or final decision on the issues in question.

Advance Notice—notice informing the client of a proposed adverse action and the date that the future action will be taken.

Advance Notice Period—the period from the date of the notice to the date the proposed action is to be taken.

Adverse Notice—any written notice informing the client of any department action which unfavorably affects his case and when that action is effective.

Appeal Decision—an official report which contains the substance of what transpired at the hearing and a summary of the case facts, identifies pertinent state or federal regulations, and gives the reason for the decision. It is the final written decision of the Department of Children and Family Services (DCFS), Appeals Unit, on the issue in question.

Authorized Agent—any person acting on behalf of an applicant/recipient. This may include a friend, relative, attorney, paralegal, legal guardian, conservator, or foster care provider. For Supplemental Nutrition Assistance Program (SNAP) purposes, it may also mean an authorized representative or another household member.

Benefits—any kind of assistance, payments or benefits made by the department for Family Independence Temporary Assistance Program (FITAP), Strategies to Empower People (STEP) Program, Kinship Care Subsidy Program (KCSP), or Supplemental Nutrition Assistance Program.

Claimant—an applicant or recipient who has requested a hearing.

Concurrent Notice—notice informing the client of an action on his case which is being effected at the time the notice is given. The client is also informed of his right to request a fair hearing within an appropriate time-period.

Date of Action—the intended date on which a termination, suspension, or reduction of benefits becomes effective.

Department—any operating unit of the Department of Children and Family Services (DCFS) such as local, regional, or state offices.

Department Conference—a meeting between the claimant and the department where a supervisor or administrator explains the action that is being appealed. It may be conducted by telephone if the claimant agrees. The worker/program coordinator may participate if the supervisor deems this appropriate and the claimant is in agreement.

Directive—a written communication from the DCFS Appeals Unit to the department giving specific instructions to be taken as a result of a hearing. This action shall be taken within 10 days and reported to the DCFS Appeals Unit within 14 days of the receipt of the directive.

Fair Hearing—an administrative procedure during which a claimant, or a group of claimants, or his, or their, authorized agent may present a grievance and show why it is believed the department action, proposed action, or inaction is not fair and should be corrected. A fair hearing meets the due process requirements set forth in the U.S. Supreme Court decision in Goldberg vs. Kelly.

Official Hearing Record—a verbatim transcript or an official report summarizing what transpired at the hearing, all evidence and other material introduced at the hearing, the recommendations of the administrative law judge, and the directive, if issued.

Public Assistance Household—a SNAP household in which all members receive FITAP, KCSP, or federal Supplemental Security Income (SSI).

Request for a Fair Hearing—any clear expression (oral or written) by the claimant or his authorized agent that he wants to appeal a department decision to a higher authority.

Subpoena—an order commanding that a designated person or document be present at a fair hearing.

Summary of Evidence—a document prepared by the department stating the reason(s) the department decided to take the action being appealed. Its purpose is to provide the claimant information needed to prepare his case for the hearing.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq., R.S. 36:474, R.S. 46:237.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Family Security, LR 11:689 (July 1985), amended by Department of Social Services, Office of Family Support, LR 25:2259 (November 1999), LR 26:350 (February 2000), amended by the Department of Children and Family Services, Division of Programs, Economic Stability, LR 38:965 (April 2012), amended by the Department of Children and Family Services, Economic Stability Section, LR 44:443 (March 2018).

§303. General Rules and Principles

A. The DCFS Appeals Unit is responsible for providing a system of hearings which must meet the due process standards set forth in federal regulations, state laws, and Goldberg vs. Kelly 397 US 245 (1970).

B. Each applicant is informed by the application and by the appropriate notification forms (as decisions are made affecting his case) of his right to a hearing, of the method by which a hearing may be requested, and who may present his case. Detailed information concerning the Fair Hearing procedure is contained in the Fair Hearing Pamphlet, Form OFS 5F, (which is provided by the Division of Administrative Law (DAL) or DCFS office) when a fair hearing is requested.

C. The claimant may represent himself at the hearing or be represented by any authorized agent.

D. Minimum procedural safeguards necessary to accomplish the purpose of a fair hearing are:

1. a notice explaining the reason for the action and citing the policy reference;

2. an opportunity to defend by confronting adverse witnesses;

3. an opportunity to present arguments and evidence orally;

4. an opportunity to appear with counsel;

5. an impartial administrative law judge;

6. a decision based solely on the legal rules and the evidence offered as proof at the hearing or obtained subsequent to the hearing; and

7. a statement explaining the reasons for the decision of the administrative law judge and indicating the evidence on which the decision is based.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq., R.S. 36:474.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 25:2260 (November 1999), amended by the Department of Children and Family Services, Division of Programs, Economic Stability, LR 38:965 (April 2012).

§305. Right to Request a Fair Hearing

A. Every applicant/recipient who believes he has been unjustly treated regarding benefits or services under any program administered by the Department of Children and Family Services may request a fair hearing.

B. The DCFS Appeals Unit has the right to deny a request for a fair hearing when:

1. the request is outside of the jurisdiction of the DCFS Appeals Unit;

2. the request for a hearing is made after the time limit has expired; or

3. the sole issue is one of state or federal law or regulation requiring automatic adjustment in benefits for classes of recipients.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq., R.S. 36:474.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 25:2260 (November 1999), amended by the Department of Children and Family Services, Division of Programs, Economic Stability, LR 38:965 (April 2012).

§307. Time Limits for Requesting a Fair Hearing

A.1. When a decision is made on a case, the client is notified and is allowed the following number of days from the date of the notice to request a fair hearing:

a. FITAP—30 days;

b. STEP Program—30 days;

c. KCSP—30 days;

d. SNAP—90 days.

2. The client may appeal at any time during a certification period for a dispute of the current level of benefits.

B. An appeal is timely requested if the appeal request:

1. is delivered on or before the due date; or

2. received via fax or mailed on or before the due date. If the appeal request is received by mail on the first working day following the due date, there shall be a rebuttable presumption that the appeal was timely filed. In all cases where the presumption does not apply, the timeliness of the mailing shall be shown only by an official United States postmark or by official receipt or certificate from the United States Postal Service made at the time of mailing which indicates the date thereof. For purposes of this Section, "by mail" applies only to the United States Postal Service.

AUTHORITY NOTE: Promulgated in accordance with 42 USC 601 et seq., and R.S.36:474.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 25:2260 (November 1999), amended LR 26:350 (February 2000), amended by the Department of Children and Family Services, Division of Programs, Economic Stability, LR 38:965 (April 2012), amended by Department of Children and Family Services, Economic Stability Section, LR 44:443 (March 2018).

§309. Time Limits for Decisions to be Rendered

A. A prompt, definitive, and final decision must be provided within the number of days from the date of the fair hearing request as listed below:

1. FITAP—90 days;

2. STEP Program—90 days;

3. KCSP—90 days;

4. SNAP—60 days.

B. If the hearing is delayed at the request of the claimant or his authorized agent, the time limit for the rendering of a decision is extended for as many days as the hearing is delayed. However, the hearing cannot be delayed more than 30 days without good cause.

C. Limits for rendering a decision may be extended when the client wishes to present additional evidence. The limits are extended for the number of days it takes the client to submit the evidence.

D. Failure to meet the time limits in this Section shall have no effect on the validity of the decision.

AUTHORITY NOTE: Promulgated in accordance with 42 USC 601 et seq., R.S. 36:474, and R.S. 46:237.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 25:2261 (November 1999), amended LR 26:351 (February 2000), amended by the Department of Children and Family Services, Division of Programs, Economic Stability, LR 38:965 (April 2012), amended by Department of Children and Family Services, Economic Stability Section, LR 44:443 (March 2018).

§311. Expedited SNAP Hearings

A. The DCFS Appeals Unit and the department must expedite hearing decisions for SNAP households that plan to move from the jurisdiction of the hearing official before the hearing decision would normally be reached. Hearing requests from these households shall be expedited if necessary to enable them to receive a decision before they leave the area.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq., R.S. 36:474.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 25:2261 (November 1999), amended by the Department of Children and Family Services, Division of Programs, Economic Stability, LR 38:966 (April 2012).

§313. Continuation of Benefits

A. Recipients in all categories, except STEP Program, who request a fair hearing prior to the expiration of the advance notice of adverse action or within 13 days of the date of concurrent notice must have benefits continued at, or reinstated to, the benefit level of the previous month, unless:

1. the recipient indicates he does not want benefits continued;

2. a determination is made at the hearing that the sole issue is one of existing or changing state or federal law; or

3. a change unrelated to the appeal issue affecting the client's eligibility occurs while the hearing decision is pending and the client fails to request a hearing after receiving the notice of change.

B. Benefits will continue at the prior level until the end of the certification period or until the resolution of the hearing, whichever is first. Such benefits are subject to recovery by the department if the action is upheld.

AUTHORITY NOTE: Promulgated in accordance with 42 USC 601 et seq., and R.S. 36:474.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 25:2261 (November 1999), amended by the Department of Children and Family Services, Division of Programs, Economic Stability, LR 38:966 (April 2012), amended by Department of Children and Family Services, Economic Stability Section, LR 44:443 (March 2018).

§315. Client Rights

A. The claimant or his authorized agent has the right to:

1. department assistance in filing and preparing his request or an explanation of how to file an appeal;

2. specific case record documents or applicable policy necessary to determine whether a hearing should be requested and/or the documents or policy necessary to prepare for a hearing. This is provided upon request and without charge;

3. information about, and referral to, available community legal services;

4. a verbal explanation of the hearing procedures in the appropriate language if the individual making the request does not speak English;

5. review the case record. Upon request and at a reasonable time before the hearing, the claimant and/or his authorized agent must be allowed to review the claimant's case record or any documents to be used by the department at the hearing in the presence of a department representative:

a. confidential records, including confidential medical records, must be withheld unless the records were used as the basis for the determination which is being appealed;

b. the client must provide written permission before anyone other than the client is allowed to view the case record;

6. present his case himself or with the aid of others, including legal representation;

7. request that a subpoena be issued. The DCFS Appeals Unit will evaluate such requests and authorize the department to serve the subpoena if appropriate;

8. request a postponement prior to the hearing. The DCFS Appeals Unit will decide if a postponement is to be granted based upon good cause. Regardless of good cause, requests for rescheduling an initial hearing for a SNAP appeal will be granted;

9. submit evidence and bring witnesses to the hearing. The claimant has the right to advance arguments without undue interference and to question or refute any testimony or evidence, including the right to confront and cross-examine witnesses;

10. request a rescheduled hearing after failing to appear at the hearing. The DCFS Appeals Unit will evaluate the requests to determine if good cause exists.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq., R.S. 36:474.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 25:2261 (November 1999), amended by the Department of Children and Family Services, Division of Programs, Economic Stability, LR 38:966 (April 2012).

§317. Responsibility of DCFS Appeals Unit When a Fair Hearing is Requested

A. The DCFS Appeals Unit has the sole responsibility for accepting or rejecting all requests for a fair hearing.

B. The DCFS Appeals Unit must acknowledge fair hearing requests made directly to that office by or for a claimant, or requests submitted by the department. All requests must be denied or accepted in writing. The department will receive appropriate notification.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq., R.S.36:474.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 25:2262 (November 1999), amended by the Department of Children and Family Services, Division of Programs, Economic Stability, LR 38:966 (April 2012).

§319. Scheduling

A. The DCFS Appeals Unit will cause to be scheduled all fair hearings. The claimant, his authorized agent, and the department will be notified at least 10 days in advance of the time, place, and date of the hearing. Hearings will be scheduled during regular working hours and will normally be set in the department office, unless there are reasons for scheduling in another location.

B. Any hearing which is required or permitted hereunder may be conducted utilizing remote telephonic communications if the record reflects that all parties have consented to conducting the hearing by use of such communications and that such procedure will not jeopardize the rights of any party to the hearing. A face-to-face hearing will be conducted if requested by the appellant.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq., R.S .36:474.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 25:2262 (November 1999), amended by the Department of Children and Family Services, Division of Programs, Economic Stability, LR 38:966 (April 2012).

§321. Providing a Summary of Evidence to the Client

A. The DCFS Appeals Unit will provide or will cause to be provided a copy of the summary of evidence to the claimant or to his authorized agent with the notice for scheduling the fair hearing.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq., R.S. 36:474.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 25:2262 (November 1999), amended by the Department of Children and Family Services, Division of Programs, Economic Stability, LR 38:966 (April 2012).

§323. Withdrawals

A. The claimant may withdraw his request for a fair hearing at any time prior to the hearing. The request for withdrawal may be stated verbally during a department conference held by telephone or in person or submitted in writing to the local office or the DCFS Appeals Unit. The local office must send written notice to the client or the client's representative confirming the withdrawal for verbal withdrawals that are initiated at the local office level during a department conference. The DCFS Appeals Unit must send written notice to the client, the client's representative, and the department confirming the withdrawal for withdrawals that are initiated at the DCFS Appeals Unit and/or at the state office level.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq., R.S. 36:474.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 25:2262 (November 1999), amended by the Department of Children and Family Services, Division of Programs, Economic Stability, LR 38:966 (April 2012).

§325. Dismissal of a Request for a Fair Hearing

A. A fair hearing request which is accepted by the DCFS Appeals Unit may be disposed of without a hearing and without a decision only when:

1. the request for a fair hearing is withdrawn; or

2. the claimant abandons his request for a hearing. If the claimant or his authorized agent fails to appear for a hearing and has made no contact with the department or the DCFS Appeals Unit, the request for a fair hearing will be considered abandoned. If he later requests to reschedule, the request will be evaluated for good cause;

3. the issue is settled in the claimant's favor by the department.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq., R.S. 36:474.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 25:2262 (November 1999), amended by the Department of Children and Family Services, Division of Programs, Economic Stability, LR 38:967 (April 2012).

§327. Group Hearings

A. When a department policy or regulation is the sole issue, the DCFS Appeals Unit may schedule or cause to be scheduled a single group hearing to respond to a series of individual requests. Regulations governing individual fair hearings are followed. Each individual claimant must be permitted to present his case or be represented by an authorized agent. If a group hearing is arranged, an individual claimant must be given the right to withdraw from the group hearing in favor of an individual hearing.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq., R.S. 36:474.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 25:2262 (November 1999), amended by the Department of Children and Family Services, Division of Programs, Economic Stability, LR 38:967 (April 2012).

§329. Attendance

A. Only persons directly concerned are permitted to attend the hearing. The claimant may be accompanied or represented by anyone he believes necessary or desirable to support his claim, including legal counsel if he so desires.

B. Appropriate department representatives and service providers are required to attend the hearing.

C. The administrative law judge has the authority to limit the number of persons in attendance.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq., R.S. 36:474.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 25:2262 (November 1999), amended by the Department of Children and Family Services, Division of Programs, Economic Stability, LR 38:967 (April 2012).

§331. Hearing Official

A. Hearings shall be conducted by an impartial official(s) who:

1. does not have a personal involvement in the case;

2. was not directly involved in the initial determination of the action which is being contested; and

3. was not the immediate supervisor of the worker who took the action.

B. The hearing official shall be:

1. an individual under contract with the Department of Children and Family Services.

C. The hearing official shall:

1. administer oaths or affirmations;

2. insure that all relevant issues are considered;

3. request, receive and make part of the record all evidence determined necessary to decide the issues;

4. regulate the conduct and course of the hearing consistent with due process to insure an orderly hearing;

5. order, where relevant and useful, an independent medical assessment or professional evaluation from a source mutually satisfactory to the household and the Department of Children and Family Services;

6. provide a hearing record and recommendation for final decision by the hearing authority; or, if the hearing official is the hearing authority, render a hearing decision in the name of the Department of Children and Family Services which will resolve the dispute.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq., R.S. 36:474.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 25:2262 (November 1999), amended by the Department of Children and Family Services, Division of Programs, Economic Stability, LR 38:967 (April 2012).

§333. Hearing Authority

A. The hearing authority shall be the person designated to render the final administrative decision in a hearing.

B. Decisions of the hearing authority shall comply with state and federal law and regulations and shall be based on the hearing record.

C. A decision by the hearing authority shall be binding on the Department of Children and Family Services and shall summarize the facts of the case, specify the reasons for the decision, and identify the supporting evidence and the pertinent state or federal regulations. The decision shall become a part of the record. The household shall be notified in writing of the:

1. decision;
2. reasons for the decision;
3. available appeal rights; and
4. right to pursue judicial review of the decision.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq., R.S. 36:474.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 25:2263 (November 1999), amended by the Department of Children and Family Services, Division of Programs, Economic Stability, LR 38:967 (April 2012).

Chapter 4. Electronic Benefits Issuance System

§401. Electronic Benefits Transfer (EBT)

A. Economic Stability programs utilize an electronic benefits issuance system referred to as Electronic Benefits Transfer (EBT) that allows eligible individuals and households to have their governmental benefits deposited into an account to pay for products purchased or to obtain authorized cash payments. Programs that utilize the EBT are Family Independence Temporary Assistance Program (FITAP), Kinship Care Subsidy Program (KCSP), and Supplemental Nutrition Assistance Program (SNAP) Benefits.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:450.1, 7 CFR 274.12 and 45 CFR 95(F). Section 404(g)of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 22:1231 (December 1996), amended LR 23:869 (July 1997), LR 33:1878 (September 2007), repromulgated LR 33:2203 (October 2007), amended by the Department of Children and Family Services, Economic Stability Section, LR 46:1669 (December 2020), effective January 1, 2021.

§403. Cash Benefits [Formerly §402]

A. Cash benefits and Supplemental Nutrition Assistance Program (SNAP) benefits shall be available through EBT in staggered cycles to on-going households beginning on the first day of each month. The last digit of the Social Security number determines the date that benefits are issued. Cash benefits will be available within the first five days of each month. SNAP benefits will be available within the first 23 days of each month. SNAP cases that contain elderly or disabled persons will have benefits available during the first four days of each month. Other issuance authorizations will be posted to the EBT account the day after they are authorized except in emergency circumstances in which case benefits will be available on the same day.

B. Benefits are delivered in this manner for households certified on an on-going basis. Benefits can accumulate but are accounted for according to the month of availability and will be withdrawn on a first-in-first-out basis. Each month's benefits with no activity by the client for a period of 365 days from the date of availability will be expunged and will not be available to the household after expungement. FITAP benefits which have been expunged may be reauthorized for availability if the recipient has good cause for not having accessed them during the original availability period.

AUTHORITY NOTE: Promulgated in accordance with 7 CFR 272.3(c)(1)(ii) and P.L. 104-193, P.L. 110-246.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 24:1322 (July 1998) amended LR 33:1878 (September 2007), repromulgated LR 33:2203 (October 2007), LR 35:689 (April 2009), amended by the Department of Children and Family Services, Division of Family Support, LR 44:23 (January 2018), amended by the Department of Children and Family Services, Economic Stability Section, LR 46:1669 (December 2020), effective January 1, 2021.

§405. Participation of Retailers (Effective October 1, 1997) [Formerly §403]

A. Retail establishments which are U.S. Department of Agriculture, Food and Nutrition Service (FNS), authorized Supplemental Nutrition Assistance Program benefit redemption points must be allowed the opportunity to participate in the state EBT system. FNS approved retailer may choose to accept EBT cards for cash transactions (FITAP and KCSP). All other retail establishments may participate in the cash access component of the system unless prohibited by R.S. 46:231.14(B) by contacting their commercial debit/credit processor to request to participate in cash access. Retailers participating in cash access will be charged standard commercial connection, lease, and/or transaction fees to interface with the EBT system.

B. In accordance with R.S. 46:231.14, when a retailer or other business establishment is cited for violations of any provision of R.S. 46:231.14(A) or R.S. 46:231.14(B) regarding prohibited retailers, goods and services, the department shall take administrative actions as follows.

1. Fines. Any retailer or other business establishment that violates these regulations shall be subject to the following civil fines:

a. $500 for the first violation;

b. $1,000 for the second violation;

c. $2,500 for the third violation and each violation thereafter.

2. Notice. When a fine is imposed under these regulations, the department shall notify the retailer or other business establishment by letter that a fine has been assessed due to violations cited at the establishment and the right to appeal. The notification may be sent by certified mail or hand delivered to the establishment. If the owner is not present at the establishment, delivery of the written reason(s) for such action may be made to any staff of the establishment. Notice to a staff shall constitute notice to the establishment of such action and the reasons therefore. The letter shall specify the dates and the violation cited for which the fine(s) shall be imposed. Fines are due within 30 calendar days from the date of receipt of the letter unless the retailer or other business establishment requests an appeal.

3. Appeal Procedure for Fines. An appeal process is established by the department in the event the retailer disagrees with the civil fines.

a. The retailer or business establishment shall have 15 calendar days from the receipt of the notice to appeal the decision to the DCFS Appeals Section. A request for appeal shall include a copy of the letter from the department that notes the reasons for assessment of the fine and the specific areas of the decision the appellant believes to be erroneous and/or the specific reasons the decision is believed to have been reached in error, and shall be mailed to Department of Children and Family Services, Appeals Section, P.O. Box 2944, Baton Rouge, LA 70821-9118.

b. The DCFS Appeals Section shall notify the Division of Administrative Law (DAL) of receipt of an appeal request. DAL shall conduct a hearing in accordance with the Administrative Procedure Act within 30 days of the receipt thereof, and shall render a decision not later than 60 days from the date of the hearing. The appellant will be notified by letter from DAL of the decision, either affirming or reversing the department's decision.

c. If the retailer or business establishment filed a timely appeal and the department's assessment of fines is affirmed by an administrative law judge of the DAL, the fine shall be due within 30 calendar days after mailing notice of the final ruling of the administrative law judge or, if a rehearing is requested, within 30 calendar days after the rehearing decision is rendered. The retailer or business establishment shall have the right to seek judicial review of any final ruling of the administrative law judge as provided in the Administrative Procedure Act. If the appeal is dismissed or withdrawn, the fines shall be due and payable within seven calendar days of the dismissal or withdrawal. If a judicial review is denied or dismissed, either in district court or by a court of appeal, the fines shall be due and payable within seven calendar days after the retailer or business establishment's suspensive appeal rights have been exhausted.

d. If the retailer or business establishment does not appeal within 15 calendar days of receipt of the department's notice, the fine is due within 30 calendar days of receipt of the department's notice of the fine and shall be mailed to Department of Children and Family Services, Fraud and Recovery Unit, P.O. Box 91147, Baton Rouge, LA 70821-9147. If the retailer or business establishment files a timely appeal, the fines shall be due and payable on the date set forth in §405.B.3.c. If the retailer or business establishment withdraws the appeal, the fine is payable within seven calendar days of the withdrawal or on the original date that the fine was due, whichever is later.

4. Collection. If the retailer or business establishment does not pay the fine within the specified timeframe, the department shall pursue civil court action to collect the fines, together with all costs of bringing such action, including travel expenses and reasonable attorney fees. Interest shall begin to accrue at the current judicial rate on the day following the date on which the fines become due and payable.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:474.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 24:106 (January 1998), amended LR 33:1878 (September 2007), repromulgated LR 33:2204 (October 2007), amended by the Department of Children and Family Services, Economic Stability Section, LR 41:534 (March 2015).

§407. Service Fees Effective October 1, 1997 [Formerly §405]

A. Recipients of cash assistance may be charged fees for accessing cash only benefits. Retailers may charge their usual and customary check cashing fee for providing cash only benefits to FITAP recipients under the following circumstances:

1. the recipient presents a valid EBT system card (known as the "Louisiana Purchase Benefit Card"); and

2. the recipient is not using the card to obtain cash in conjunction with the purchase of goods or services through the EBT system.

B. Retailers may process cash transactions through the EBT system only while the system is available. Retailers shall not dispense cash to recipients using vouchers or other means of implied payment to the retailer.

C. Retailers are prohibited from recovering losses through the EBT system due to their errors that are discovered after the transaction is completed and the recipient has left the place of business.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:450.1(C)(3), R.S. 46:231.13, R.S. 36:474.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 24:107 (January 1998), amended LR 33:1879 (September 2007), repromulgated LR 33:2204 (October 2007).

§409. Participation of Approved Prepared-Meal Facilities [Formerly §407]

A. Facilities providing prepared meals that are authorized by the United States Department of Agriculture, Food and Nutrition Service and, in some instances, the agency, to accept food stamp benefits for prepared meals may be authorized redemption points using the EBT card. Participating facilities are subject to all applicable

regulations of this provision. If found guilty of abuse, misuse or fraud by using the EBT card or benefits in a manner or intent contrary to the purpose of the Food Stamp Program, a facility may be permanently disqualified from participation and have all equipment provided by the vendor disconnected and removed from the facility after due process.

1. A facility must maintain confidentiality in accordance with Food Stamp Program rules by requiring privacy when accepting payments or payment/contributions from recipients.

2. Settlement of funds to a facility will be made electronically as a direct deposit to the financial institution selected by the facility.

3. A facility must sign a contract with the agency's EBT vendor and be certified to the vendor's system prior to participation.

B. Types of Facilities

1. Duly authorized non-residential facilities such as communal dining facilities or Meals-on-Wheels may accept food stamp benefits for single meals.

2. Duly authorized residential facilities such as homeless shelters or battered women's shelters may accept food stamp benefits for multiple meals or on-going food maintenance. Such establishments may accept food stamp payments or contributions not to exceed the biweekly rate of the facility. This requirement will ensure that recipients have adequate benefits remaining in their accounts upon departure from the establishment.

C. A facility with redemption of food stamp benefits of $100 or more per month will be provided a Point-of-Sale (POS) terminal to enable acceptance of the EBT card. A facility with redemption of less than $100 per month will utilize paper voucher authorizations for the acceptance of food stamp benefits.

AUTHORITY NOTE: Promulgated in accordance with 7 CFR 282.1(a).

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 24:1322 (July 1998), amended LR 33:1879 (September 2007), repromulgated LR 33:2204 (October 2007).

Chapter 5. Computer Matching

§501. Due Process

A. Due process will be provided to applicants for and recipients of benefits in the Food Stamp, Family Independence Temporary Assistance Program, and Refugee Cash Assistance Programs who are subject to computer matches.

1. Any adverse information developed in a computer match must be subjected to investigation and verification before action is taken.

2. Recipients may not have their benefits suspended or reduced based on the information received in a computer match until the expiration of a 30-day adverse notice period. If an individual contacts the agency within the notice period and indicates acceptance of the validity of the adverse information, the agency may take immediate action to deny or terminate. The agency may also take action if the period expires without contact.

AUTHORITY NOTE: Promulgated in accordance with P.L. 100-503 and 7CFR 273.13.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Eligibility Determinations, LR 16:321 (April 1990).

Chapter 7. Statewide Income and Eligibility Verification System (SIEVS)

§701. SIEVS Program

A. Effective September 30, 1986, the Office of Family Security will implement the Statewide Income and Eligibility Verification System (SIEVS). The Social Security numbers of applicants for and recipients of benefits and services through the assistance payments, food stamps, and medical assistance programs will be submitted to SIEVS at application and at regular periods thereafter. SIEVS will perform computer matching to obtain information from the Social Security Administration, the Internal Revenue Service, and the Louisiana Department of Labor. SIEVS will receive information regarding income and resources from these agencies, and will produce reports for OFS eligibility workers. The eligibility workers will use the information to determine whether applicants and recipients have reported correctly and whether eligibility and benefit level have been determined correctly.

AUTHORITY NOTE: Promulgated in accordance with F.R. 51:7178 et seq. and 7CFR 273.2.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Family Security, LR 12:599 (September 1986).

Chapter 8. General Administrative Procedures

§801. Implementation of Regulations

A. Because of the nature of the eligibility programs administered by the agency, rules promulgated by the Office of Family Support are effective the first of the month following the publication of the final rule, unless otherwise stated within the rule.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:474.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 25:2263 (November 1999).

§803. Benefit Delivery

A. The Office of Family Support delivers benefits in the following manner:

1. electronic benefits transfer; or

2. direct deposit; or

3. stored value cards; or

4. checks.

AUTHORITY NOTE: Promulgated by 7 CFR 274.12; and ACF Guidance: ACYF—IM-CC-05-03, Section 404(g) and Section 454b(b) of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 33:1879 (September 2007), repromulgated LR 33:2468 (November 2007).

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SOCIAL SERVICES
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Chapter 9. Administration

§901. Authority

A. The Family Independence Temporary Assistance Program (FITAP) has been established in accordance with applicable federal and state laws.

AUTHORITY NOTE: Promulgated in accordance with P.L. 104-193, R.S. 46:231 and R.S. 36:474.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 17:1226 (December 1991), amended LR 23:1707 (December 1997).

§902. State Plan

A. The Title IV-A State Plan as it existed on August 21, 1996, is hereby adopted to the extent that its provisions are not in conflict with any emergency or normal rules adopted or implemented on or after August 21, 1996.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:474, R.S. 46:233 and P.L. 104-193.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 23:448 (April 1997), amended LR 28:1598 (July 2002).

Chapter 12. Application, Eligibility, and Furnishing Assistance

Subchapter A. Application, Determination of Eligibility, and Furnishing Assistance

§1201. Application Date

A. All individuals applying for FITAP shall be considered applicants for assistance and shall file a written and signed application form under penalty of perjury. The date the application form is received by the department shall be considered the date of application. If an application is received after 4:30 p.m. central time, the following workday shall be considered the date of application. If determined eligible, benefits shall be prorated from the date of application.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq., R.S. 36:474, R.S. 46:231.1.B.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 25:2446 (December 1999), amended by the Department of Children and Family Services, Economic Stability Section, LR 45:1439 (October 2019).

§1203. Standard Filing Unit

A. The mandatory filing unit includes the child, the child's siblings (including half and step-siblings) and the parents (including legal stepparents) of any of these children living in the home. In the case of the child of a minor parent, the filing unit shall include the child, the minor parent, the minor parent's siblings (including half and step) and the parents of any of these children living in the home. Supplemental Security Income (SSI) recipients and children receiving kinship care subsidy or foster care payments may not be included in the filing unit.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq., R.S. 36:474, R.S. 46:231.1.B.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 25:2447 (December 1999), amended LR 26:349 (February 2000), amended by the Department of Children and Family Services, Economic Stability Section, LR 45:1439 (October 2019).

§1205. Application Time Limit

A. The time limit for disposition of the application is 30 days from the date on which the signed application is received by the department. The applicant shall have benefits available through Electronic Benefits Transfer (EBT) or notified that he has been found ineligible for a grant by the thirtieth day, unless an unavoidable delay has occurred.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq., R.S. 36:474, R.S. 46:231.1.B.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 25:2447 (December 1999), amended by the Department of Children and Family Services, Economic Stability Section, LR 45:1439 (October 2019).

§1207. Certification Period and Reapplication

A. Certification periods of a set duration will be assigned. In order to continue to receive benefits, the household must timely reapply and be determined eligible. In the month preceding the final month of certification, a notice of expiration will be provided to the household. The notice shall inform the household that failure to timely reapply will result in closure and include the right to a fair hearing. Also, if during the reapplication process, a change is reported which results in a determination of ineligibility or a reduction in benefits, this change will be made effective the following month.

B. The department will require an official reapplication for benefits and prorate benefits from the date of application following a period of ineligibility.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq., R.S. 36:474, R.S. 46:231.1.B., 42 U.S.C. 608, et seq.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 25:2447 (December

1999), amended LR 28:1598 (July 2002), LR 32:263 (February 2006), amended by the Department of Children and Family Services, Economic Stability Section, LR 45:1439 (October 2019).

§1209. Notices of Adverse Actions

A. A notice of adverse action shall be sent at least 13 days prior to taking action to reduce or terminate benefits. In some circumstances advance notice is not required. A concurrent notice shall be sent to the client at the time of action in the following situations:

1. the agency has factual information confirming the death of the FITAP payee;

2. the client signs a statement requesting reduction or closure and waiving the right to advance notice;

3. the client's whereabouts are unknown and agency mail directed to the client has been returned by the Post Office indicating no known forwarding address;

4. a client has been certified in another state and that fact has been established;

5. a child is removed from the home as a result of a judicial determination, or is voluntarily placed in foster care by his legal guardian;

6. the client has been admitted or committed to an institution;

7. the client has been placed in a skilled or intermediate nursing care facility or long-term hospitalization;

8. the agency disqualifies a household member because of an intentional program violation and the benefits of the remaining household members are reduced or terminated because of the disqualification;

9. the worker reduces or ends benefits at the end of a normal period of certification when the client timely reapplies;

10. the case is closed due to the amount of child support collected through child support enforcement services;

11. the client has been certified for supplemental security income or foster care payments and that fact has been established;

12. the child is certified for kinship care subsidy payments;

13. the agency receives a written report signed by the head of household or other responsible household member which provides sufficient information for the agency to determine the household's benefit amount or ineligibility;

14. benefits are reduced or terminated effective the month following the simplified report month;

15. mass changes.

AUTHORITY NOTE: Promulgated in accordance with 42 USC 601 et seq., R.S. 36:474, R.S. 46:231.1(B), R.S. 46:237, Act 58, 2003 Reg. Session and Act 16, and 2005 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 25:2447 (December 1999), amended LR 26:349 (February 2000), LR 28:2565 (December 2002), LR 30:493 (March 2004), LR 32:1911 (October 2006), amended by the Department of Children and Family Services, Economic Stability Section, LR 44:443 (March 2018), amended by the Department of Children and Family Services, Economic Stability Section, LR 45:1439 (October 2019).

§1211. Minimum Payments

A. FITAP grant payments in an amount of less than $10 will be prohibited.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq., R.S. 36:474, R.S. 46:231.1.B.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 25:2447 (December 1999).

§1213. Domestic Violence

A. The secretary shall waive, for as long as necessary, pursuant to a determination of good cause, any public assistance program requirement that will create obstacles for a victim of domestic violence to escape a domestic violence situation, including but not limited to, time limits on receipt of assistance; work, training, or educational requirements; limitations on TANF assistance to noncitizens; child support or paternity establishment cooperation requirements; residency requirements; and any other program requirements which will create obstacles for such victim to escape violence or penalize that victim for past, present, and potential for abuse. However, a victim of domestic violence shall develop a plan that specifies the necessary actions, goals, and services that may enable the victim to become free of a domestic violence situation.

B. Any information obtained pursuant to this Section regarding a victim of domestic violence shall be used solely for the purposes provided for in this Section or for referral to supportive services and shall not be released to any third party, including a governmental agency, unless such agency is authorized to obtain such information by another provision of law.

C. Individuals who allege domestic violence should submit any available evidence to substantiate their claim. If the individual alleging to be a victim of domestic violence is unable to provide documentation to substantiate the claim, the client's statement may be accepted unless there is a reasonable basis to doubt the statement. The worker must continue to attempt to secure the documentation as it becomes available. The documentation may include, but is not limited to:

1. police, government agency or court records;

2. documentation from a shelter worker, legal professional, member of the clergy, medical professional, or other professional from whom the individual has sought assistance in dealing with domestic violence;

3. other corroborating evidence, such as a statement from any other individual with knowledge of the circumstances which provide the basis for the claim;

4. physical evidence of domestic violence; or

5. other evidence which supports the statement.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq., R.S. 36:474 and R.S. 46:231.1.B, Act 58, 2003 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 25:2447 (December 1999), amended LR 30:494 (March 2004), amended by the Department of Children and Family Services, Economic Stability Section, LR 40:1675 (September 2014).

Subchapter B. Conditions of Eligibility

§1221. Age Limit

A. A dependent child must be:

1. under 18 years of age; or

2. 18 years of age and enrolled in a secondary school or its equivalent.

B. Unborn children are not eligible for FITAP.

C. A pregnant woman who has completed fifth month of pregnancy may be certified if otherwise eligible (unborn is not eligible).

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq., R.S. 36:474 and R.S. 46:231.2, Act 58, 2003 Reg. Session, Act 675, 2004 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 25:2448 (December 1999), amended LR 30:494 (March 2004),), LR 31:102 (January 2005).

§1223. Citizenship

A. Each FITAP recipient must be a United States Citizen, a non-citizen national, or a qualified alien. A non-citizen national is a person born in an outlying possession of the United States (American Samoa or Swain's Island) on or after the date the U.S. acquired the possession, or a person whose parents are U.S. non-citizen nationals. A qualified alien is:

1. an alien who is lawfully admitted for permanent residence under the Immigration and Nationality Act;

2. an alien who is granted asylum under Section 208 of such Act;

3. a refugee who is admitted to the United States under Section 207 of such Act;

4. an alien who is paroled into the United States under Section 212(d)(5) of such Act for a period of at least one year;

5. an alien whose deportation is withheld under §243(h) of such Act [as in effect immediately before the effective date (April 1, 1997) of §307 of Division C of Public Law 104-208] or §241(b)(3) of such Act [as amended by Section 305(a) of Division C of Public Law 104-208];

6. an alien who is granted conditional entry pursuant to §203(a)(7) of such Act as in effect prior to April 1, 1980; or

7. an alien who is a *Cuban* or *Haitian* entrant, as defined in §501(e) of the Refugee Education Assistance Act of 1980;

8. an alien who has been battered or subjected to extreme cruelty in the United States by a spouse or parent, or by a member of the spouse's or parent's family residing in the same household as the alien if the spouse or parent consented to, or acquiesced in, such battery or cruelty. The individual who has been battered or subjected to extreme cruelty must no longer reside in the same household with the individual who committed the battery or cruelty. The agency must also determine that a substantial connection exists between such battery or cruelty and the need for the benefits to be provided. The alien must have been approved or have a petition pending which contains evidence sufficient to establish:

a. the status as a spouse or a child of a United States citizen pursuant to Clause (ii), (iii), or (iv) of §204(a)(1)(A) of the Immigration and Nationality Act (INA); or

b. the classification pursuant to Clause (ii) or (iii) of §204(a)(1)(B) of the INA; or

c. cancellation of removal under §1229b of the INA (as in effect prior to April 1, 1997); or

d. the status as a spouse or child of a United States citizen pursuant to Clause (i) of §204(a)(1)(A) of the INA, or classification pursuant to Clause (i) of §204(a)(1)(B) of the INA;

e. cancellation of removal pursuant to §1229b(b)(2) of the INA;

9. an alien child of a battered parent or the alien parent of a battered child as described in §1223.A.8; or

10. an alien who is a victim of a severe form of trafficking in persons or effective May 1, 2006, an eligible relative of a victim of a severe form of trafficking in persons.

11. an Iraqi or Afghan immigrant who has been granted Special Immigrant Visa (SIV) status.

B. Time-Limited Benefits. A qualified alien who enters the United States on or after August 22, 1996, is ineligible for five years from the date of entry into the United States unless:

1. the alien is admitted to the United States as a refugee under Section 207 of the Immigration and Nationality Act;

2. the alien is granted asylum under Section 208 of such Act;

3. the alien's deportation is withheld under §243(h) of such Act [as in effect immediately before the effective date (April 1, 1997) of §307 of Division C of Public Law 104-208] or §241(b)(3) of such Act [as amended by §305(a) of Division C of Public Law 104-208];

4. the alien is a *Cuban* or *Haitian* entrant as defined in Section 501(e) of the Refugee Education Assistance Act of 1980;

5. the alien is an Amerasian immigrant admitted pursuant to Section 584 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act of 1988 as amended;

6. the alien is lawfully residing in the United States and is a *veteran* (as defined in §§101, 1101, or 1301, or as described in §107 of Title 38, *United States Code*) who is honorably discharged for reasons other than alienage and who fulfills the minimum active-duty service requirements of §5303A(d) of Title 38, *United States Code*, his spouse or the unremarried surviving spouse if the marriage fulfills the requirements of §1304 of Title 38, *United States Code*, and unmarried dependent children; or

7. the alien is lawfully residing in the United States and is on active duty (other than for training) in the Armed Forces and his spouse or the unremarried surviving spouse if the marriage fulfills the requirements of §1304 of Title 38, *United States Code* and unmarried dependent children;

8. the alien is a victim of a severe form of trafficking in persons.

AUTHORITY NOTE: Promulgated in accordance with P.L. 111-118, Section 8120).

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 25:2448 (December 1999), amended LR 26:1342 (June 2000), LR 27:2263 (December 2001), LR 28:1599 (July 2002), LR 32:1911 (October 2006), amended by the Department of Children and Family Services, Economic Stability and Self-Sufficiency Section, LR 36:2524 (November 2010).

§1225. Enumeration

A. Each applicant for, or recipient of, FITAP is required to furnish a Social Security number or to apply for a Social Security number if such a number has not been issued or is not known, unless effective May 1, 2006, good cause has been established.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq., R.S. 36:474 and R.S. 46:231.1.B., Act 16, 2005 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 25:2449 (December 1999), amended LR 26:1342 (June 2000), LR 32:1911 (October 2006).

§1227. Living in the Home of a Qualified Relative

A. A child must reside in the home of a parent or other qualified relative who is responsible for the day-to-day care of the child. Benefits will not be denied when the qualified relative or the child is temporarily out of the home for a period not to exceed 180 days. Good cause must be established for a temporary absence of more than 45 days. The following relatives are qualified relatives:

1. grandfather or grandmother (extends to great-great-great);

2. brother or sister (including half-brother and half-sister);

3. uncle or aunt (extends to great-great);

4. first cousin (including first cousin once removed);

5. nephew or niece (extends to great-great);

6. stepfather or stepmother;

7. stepbrother or stepsister.

These may be either biological or adoptive relatives.

B. Eligibility for assistance for minor unmarried parents shall require that the individual and dependent child reside in the residence of the individual's parent, legal guardian, other relative, or in a foster home, maternity home or other adult-supervised supportive living arrangement, and that where possible, aid shall be provided to the parent, legal guardian or other adult relative on behalf of the individual and dependent. The following exceptions apply.

1. The minor parent has no parent or guardian (of his or her own) who is living and whose whereabouts are known.

2. No living parent or legal guardian allows the minor parent to live in his/her home.

3. The minor parent lived apart from his/her own parent or legal guardian for a period of at least one year before the birth of the dependent child or the parent's having made application for FITAP.

4. The physical or emotional health or safety of the minor parent or dependent child would be jeopardized if he/she resided in the same household with the parent or legal guardian.

5. There is otherwise good cause for the minor parent and dependent child to receive assistance while living apart from the minor parent's parent, legal guardian or other adult relative, or an adult-supervised supportive living arrangement.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq., R.S. 36:474, R.S. 46:231.2, 42 U.S.C. 608 et seq.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 25:2449 (December 1999), amended LR 32:264 (February 2006), LR 33:1686 (August 2007).

§1229. Income

A. Income is any gain or benefit to a household that has monetary value and is not considered a resource. Count all income in determining pretest eligibility except income from:

1. adoption assistance;

2. earned income of a child, including a minor unmarried parent, who is in school and working toward a high school diploma, GED, or special education certificate;

3. disaster payments;

4. Domestic Volunteer Service Act;

5. earned income credits (EIC);

6. education assistance;

7. energy assistance;

8. foster care payments;

9. monetary gifts up to $30 per calendar quarter;

10. agent orange settlement payments;

11. HUD payments or subsidies other than those paid as wages or stipends under the HUD Family Investment Centers Program;

12. income in-kind;

13. Indian and native claims and lands;

14. irregular and unpredictable sources;

15. lump sum payments;

16. nutrition programs;

17. job training income that is not earned;

18. relocation assistance;

19. loans;

20. supplemental security income;

21. wartime relocation of civilians payments;

22. developmental disability payments;

23. Delta Service Corps post-service benefits paid to participants upon completion of the term of service if the benefits are used as intended for higher education, repayment of a student loan, or for closing costs or down payment on a home;

24. Americorps VISTA payments to participants (unless the value of all such payments, adjusted to reflect the number of hours such volunteers are serving, is equivalent to or greater than the minimum wage);

25. radiation exposure compensation payments;

26. payment to victims of Nazi persecution;

27. restricted income received for a person not in the assistance unit or not in the income unit. Restricted income is income which is designated specifically for a person's use by federal statute or court order and may include RSDI, VA benefits and court ordered-support payments;

28. crime victim compensation program payments to an applicant/recipient whose assistance is necessary, in full or in part, because of the commission of a crime against the applicant, and to the extent it is sufficient to fully compensate the applicant for losses suffered as a result of the crime;

29. effective October 1, 2004 additional pay received and made available to the household by a member of the United States Armed Forces deployed to a designated combat zone;

30. effective March 1, 2006, interest income;

31. effective March 1, 2006, dividend income;

Exception: Dividends received from a resource-exempt trust fund will not be excluded as income.

32. any payments other than wages received as a result of the Mississippi Canyon 252 well incident in the Gulf of Mexico on April 20, 2010; or

33. grant funded research payments.

B. Need Standards Deduction. This deduction as described in §1229.F.3.b is applied to the income of an alien sponsor when determining eligibility and benefits of an alien.

1. The need standards are as follows.

Size of Household	Current Need Standard
1	$245
2	472
3	658
4	809
5	955
6	1,089
7	1,217
8	1,347
9	1,471
10	1,595
11	1,731
12	1,870
13	2,005
14	2,146
15	2,291
16	2,444
17	2,564
18	2,727

2. To determine the need standard amount for households exceeding 18 persons, the need standard amount for the number in excess of 18 shall be added to the need standard amount for 18 persons.

C. Earned Income Deductions. Each individual in the income unit who has earned income is entitled to the following deductions only:

1. standard deduction of $120;

2. $900 time-limited deduction. This deduction is applied for six months when a recipient's earnings exceed the $120 standard deduction. The months need not be consecutive nor within the same certification periods. The deduction is applicable for a six-month lifetime limit for the individual;

3. dependent care deduction. Recipients may be entitled to a deduction for dependent care for:

a. an incapacitated adult;

b. a child who is not receiving CCAP; or

c. effective May 1, 2006, the amount charged by a child care provider that exceeds the CCAP maximum for a child in care.

D. Flat Grant Amounts

Number of Persons	Flat Grant Amount
1	$122
2	188
3	240
4	284
5	327
6	366
7	402
8	441
9	477
10	512
11	551
12	590
13	630
14	670
15	712
16	757
17	791
18	839
18+	See NOTE 1

NOTE 1: To determine the amount for households exceeding 18 persons, add the flat grant amount for the number in excess of 18 to the flat grant amount for 18 persons and subtract $50.

E. Payment Amount. The budgetary deficit is the amount remaining after subtracting applicable income from the total assistance needs (flat grant amount). Round down to the next lower dollar of the budgetary deficit to determine the payment amount. Prorate the initial assistance payment from the date of application if otherwise eligible.

F. Income of Alien Sponsors

1. In determining the eligibility and benefits of an alien with an affidavit of support executed under 213A of the INA (8 U.S.C. 1183a), the income of the sponsor and the sponsor's spouse shall be considered except as follows in §1229.F.a-b. This attribution shall continue for the period prescribed in 8 U.S.C. 1631.

a. Indigence exception: if an alien has been determined indigent, as provided in 8 U.S.C. 1631(e), the amount of income of the sponsor or the sponsor's spouse which shall be attributed to the alien shall not exceed the amount actually provided for a period beginning on the date of such determination and ending 12 months after such date.

b. Special rule for battered spouse and child: if an alien meets the requirements of the special rule for a battered spouse or child, as provided in 8 U.S.C. 1631(f), and subject to the limitations provided therein, the provisions of §1229.F.1 shall not apply during a 12-month period. After a 12-month period, the batterer's income shall not be considered if the alien demonstrates that the battery and cruelty as defined in 8 U.S.C. 1631(f)(1) has been recognized in an order of a judge or administrative law judge or a prior determination of the Immigration and Naturalization Service, and that such battery or cruelty has, in the department's opinion, a substantial connection to the need for benefits.

2. The department has opted not to apply the deeming rule of 42 U.S.C. 608 in determining the eligibility and benefits of non-213A aliens.

3. The gross countable income of a sponsor and the sponsor's spouse shall be deemed to be the unearned income of an alien minus the following deductions:

a. 20 percent of the total earned income not to exceed $175;

b. The appropriate need standard amount for the sponsor, spouse, and any other persons living in the home whom the sponsor claims or could claim as a dependent for federal income tax purposes;

c. Total amounts the sponsor or spouse pays to anyone not living in the household but whom the sponsor or spouse claims or could claim as a dependent for federal income tax purposes; and

d. Total verified alimony or child support the sponsor or spouse pays to persons not living in the household.

G. Income of Alien Parent. When determining eligibility, income of an alien parent who is disqualified is considered available to the otherwise eligible child. The needs and income of disqualified alien siblings are not considered in determining the eligibility of an otherwise eligible dependent child.

AUTHORITY NOTE: Promulgated in accordance with 42 USC 601 et seq., and 10602(c), R.S. 36:474, R.S. 46:231.1(B), R.S. 46:231.2, P.L. 108-447, Act 16, 2005 Reg. Session, and 7 CFR 273.2(j).

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 25:2449 (December 1999), amended LR 26:1342 (June 2000), LR 26:2831 (December 2000), LR 31:2956 (November 2005), LR 32:1616 (September 2006), LR 32:1912 (October 2006), LR 34:2678 (December 2008), amended by the Department of Children and Family Services, Economic Stability and Self-Sufficiency Section, LR 36:2524 (November 2010), amended by the Department of Children and Family Services, Economic Stability Section, LR 40:1675 (September 2014), LR 42:1651 (October 2016), LR 44:444 (March 2018).

§1231. Immunization

A. Failure to follow the schedule of immunizations as promulgated by the Louisiana Office of Public Health for any child under 18 years of age, without good cause, shall result in case closure.

1. The appropriate STEP sanction shall be imposed on a work-eligible family.

2. The case of a family that is not work-eligible shall be closed for at least one month and until the child is in compliance.

B. No person is required to comply with this provision if that person or his/her parent or guardian submits a written statement from a physician stating that the immunization procedure is contraindicated for medical reasons, or if the person or his/her parent or guardian objects to the procedure on religious grounds.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq., R.S. 36:474, R.S. 46:231.4, Act 58, 2003 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 25:2451 (December 1999), amended LR 30:494 (March 2004).

§1233. Residency

A. FITAP recipients must reside in Louisiana with intent to remain.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq., R.S. 36:474, R.S. 46:231.1.B.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 25:2451 (December 1999).

§1237. School Attendance

A. Work-eligible FITAP recipients must meet the school attendance requirements outlined in LAC 67:III.Chapter 57.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq., R.S. 36:474 and R.S. 46:231.3, Act 58, 2003 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 25:2452 (December 1999), amended LR 30:494 (March 2004).

§1239. Assignment of Support Rights and Cooperation with Support Enforcement Services

A. Assignment of Support Rights

1. Each applicant for, or recipient of, FITAP is required to assign to the Department of Social Services, Office of Family Support, any accrued rights to support for any other person that such applicant or recipient may have, including such rights in his own behalf or in behalf of any other family member for whom the applicant or recipient is applying for or receiving.

2. By accepting FITAP for, or on, behalf of a child or children, the applicant or recipient shall be deemed to have made an assignment to the department of any and all right, title, and interest in any support obligation and arrearage owed to, or for, such child or children or caretaker up to the amount of public assistance money paid for, or on, behalf of such child or children or caretaker for such term of time as such public assistance monies are paid; provided, however, that the department may thereafter continue to collect any outstanding debt created by such assignment which has not been paid by the responsible person. The applicant or recipient shall also be deemed, without the necessity of signing any document, to have appointed the support enforcement services program administrator as his or her true and lawful attorney-in-fact to act in his or her name, place, and stead to perform the specific act of endorsing any and all drafts, checks, money orders or other negotiable instruments representing support payments which are received on behalf of such child or children or caretaker as reimbursement for the public assistance monies paid to such applicant or recipient.

B. Cooperation with Support Enforcement Services

1. Each applicant for, or recipient of, FITAP is required to cooperate in identifying and locating the parent of a child with respect to whom aid is claimed, establishing the paternity of a child born out of wedlock with respect to whom aid is claimed, obtaining support payments for such applicant or recipient and for a child with respect to whom aid is claimed, and obtaining any other payment or property due such applicant or recipient unless good cause is established.

2. Good cause exists when:

a. the client's cooperation with support enforcement services is reasonably anticipated to result in physical or emotional harm to the child or caretaker relative which reduces his capacity to care for the child adequately;

b. the child was conceived as a result of incest or rape;

c. legal proceedings for adoption are pending before a court; or

d. the client is being assisted by a licensed or private social agency to resolve the issue of whether to keep the child or relinquish him for adoption. The issue must not have been under discussion more than three months.

3. Failure to cooperate in establishing paternity or obtaining child support will result in case closure. The appropriate STEP sanction shall be imposed on a work-eligible family. The case of a family that is not work-eligible shall be closed for at least one month and until the family cooperates.

4. Failure to cooperate includes, but is not limited to, the following instances where good reason for failing to cooperate has not been established by the IV-D office:

a. failure to keep two consecutive appointments;

b. failure or refusal to cooperate at an interview;

c. failure to appear for, or cooperate during a court date or genetic testing.

5. The recipient who has failed to cooperate will be notified in writing of the sanctioning. The recipient's desire or intention to cooperate will not preclude case closure.

C. In any case in which child support payments are collected for a recipient of FITAP with respect to whom an assignment is in effect, such amount collected will be counted as income to determine eligibility.

D. Written notice will be provided to the Child Support Enforcement Agency of all relevant information prescribed by that agency within two days of the furnishing of FITAP.

E. Louisiana must have in effect a plan approved under Part D of Title IV of the Social Security Act and operate a child support program in conformity with such plan.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq., R.S. 36:474, R.S. 46:231.1.B, Act 58, 2003 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 25:2452 (December 1999), amended LR 30:494 (March 2004).

§1241. Sanctions for Refusal to Accept a Job

A. Refusal to accept a job will result in the appropriate sanction being imposed on a work-eligible family.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq., R.S. 36:474, R.S. 46:231.1(B), and Act 58, 2003 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 25:2452 (December 1999), amended LR 30:494 (March 2004).

§1243. Work Requirements

A. Recipients must meet the work requirements outlined in LAC 67:III.Chapter 57.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq., R.S. 36:474, R.S. 46:231.7., 46:231.8 and 46:231.9, Act 58, 2003 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 25:2453 (December 1999), amended LR 30:494 (March 2004).

§1245. Parenting Skills Education

A. Effective May 1, 2006, recipients who are pregnant or have a child under age one shall participate in parenting skills education as outlined in LAC 67:III.Chapter 57, §5711.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq., R.S. 36:474 and R.S. 46:231.5; Act 58, 2003 Reg. Session. Act 16, 2005 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 25:2453 (December 1999), amended LR 30:494 (March 2004), LR 32:1912 (October 2006).

§1247. Time Limits

A. The Office of Family Support shall deny FITAP cash benefits to families if the parent has received FITAP for at least 24 months, whether consecutive or not, during the prior 60-month period. Only months of FITAP receipt after the January 1, 1997 date of implementation count toward the 24-month limit.

B. The following situations represent exemptions from the 24-month time limit:

1. effective October 1, 2004, all adults included in the assistance unit are incapacitated or disabled; or

2. months after June 1999 in which a recipient receives the earned income disregard shall not count toward the 24-month time limit.

C. An extension of the 24-month time limit may be granted in the following situations effective October 1, 2004:

1. an individual maintains compliance with the Family Success Agreement (FSA);

2. factors relating to job availability are unfavorable;

3. an individual loses his job as a result of factors not related to his job performance;

4. other hardships have occurred which affect the individual's ability to obtain employment.

D. Eligibility for cash assistance under a program funded by Part IV of the Social Security Act is limited to a lifetime limit of 60 months. No cash assistance will be provided to a family that includes an adult who has received assistance for 60 months (whether or not consecutive) unless one of the following hardships exist (in households with two caretaker relatives, both caretaker relatives must meet at least one of these criteria) effective October 1, 2004:

1. factors relating to job availability are unfavorable;

2. an individual loses his job as a result of factors not related to his job performance;

3. other hardships have occurred which affect the individual's ability to obtain employment.

E. Any month for which such assistance was provided will be disregarded from the 24- and 60-month time limits with respect to the individual, if the individual was:

1. a minor child; and

2. not the head of a household or married to the head of a household.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq., R.S. 36:474, R.S. 46:231.6 and R.S. 46:460.5(A)(3), Act 58, 2003 Reg. Session; Act 675, 2004 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 25:2453 (December 1999), amended LR 26:349 (February 2000), LR 27:2263 (December 2001), LR 30:494 (March 2004), LR 31:102 (January 2005), LR 33:1686 (August 2007).

§1249. Drug Screening, Testing, Education and Rehabilitation Program

A. Compliance. All adult recipients of FITAP must be free from the use of or dependency on illegal drugs. All applicants for and recipients of FITAP benefits, age 18 and over, must satisfactorily comply with the requirements of the drug screening, testing, education and rehabilitation process. An *illegal drug* is a controlled substance as defined in R.S. 40:961 et seq., *controlled dangerous substance*.

B. Screening and Referral Process. All adult applicants for and recipients of FITAP will be screened for the use of or dependency on illegal drugs at initial application and redetermination of eligibility using a recognized and standardized drug abuse screening test.

1. When the screening process indicates that there is a reason to suspect that a recipient is using or dependent on illegal drugs, or when there is other evidence that a recipient is using or dependent on illegal drugs, the caseworker will refer the recipient to the Department of Health and Hospitals, Office of Behavioral Health (OBH) to undergo a formal substance abuse assessment which may include urine testing. The referral will include a copy of the screening form and a copy of the release of information form.

2. Additionally, if at any time DCFS has reasonable cause to suspect that a recipient is using or dependent on illegal drugs based on direct observation or if DCFS judges to have reliable information of use or dependency on illegal

drugs received from a reliable source, the caseworker will refer the recipient to OBH to undergo a formal substance abuse assessment which may include urine testing. All such referrals will require prior approval by the supervisor of the caseworker.

3. OBH will advise DCFS of the results of the formal assessment. If the formal assessment determines that the recipient is not using or dependent on illegal drugs, no further action will be taken unless subsequent screening or other evidence indicates a reasonable suspicion of illegal drug dependency or use. If the formal assessment determines that the recipient is using or dependent on illegal drugs, OBH will determine the extent of the problem and recommend the most appropriate and cost effective method of education and rehabilitation. The education or rehabilitation plan will be provided by OBH or by a contract provider and may include additional testing and monitoring. The OBH assessment will include a determination of the recipient's ability to participate in activities outside of the rehabilitation program.

C. Child care and transportation costs required for participation in the Drug Screening, Testing, Education And Rehabilitation Program will be paid by DCFS.

D. If residential treatment is recommended by OBH and the recipient is unable to arrange for the temporary care of dependent children, DCFS and/or OBH will coordinate with the DCFS, Child Welfare Section, to arrange for the care of such children.

E. Failure to Cooperate. Failure or refusal of a recipient to participate in drug screening, testing, or participation in the Education And Rehabilitation Program, without good cause, will result in case closure.

1. The appropriate STEP sanction shall be imposed on a work-eligible family.

2. The case of a family that is not work-eligible shall remain closed for at least one month and until the client has complied.

F. If after completion of education and rehabilitation, the recipient is subsequently determined to use or be dependent on illegal drugs, the recipient will be ineligible for FITAP cash benefits until such time that OBH determines that the individual has successfully completed the recommended education and rehabilitation program and is drug free. The eligibility of other family members will not be affected as long as the individual participates in the Education And Rehabilitation Program.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq., R.S. 36:474, R.S. 46:231.1.B, Act 58, 2003 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 25:2453 (December 1999), amended LR 30:495 (March 2004), amended by the Department of Children and Family Services, LR 39:1414 (June 2013), amended by the Department of Children and Family Services, Economic Stability Section, LR 45:1440 (October 2019).

§1251. Fleeing Felons and Probation/Parole Violators

A. No cash assistance shall be provided to a person fleeing to avoid prosecution, or custody or confinement after conviction, under the laws of the place from which the individual flees, for a crime, or an attempt to commit a crime, which is a felony under the laws of the state from which the individual flees. This does not apply with respect to the conduct of an individual, for any month beginning after the President of the United States grants a pardon with respect to the conduct.

B. No cash assistance shall be provided to a person violating a condition of probation or parole imposed under federal or state law. This does not apply with respect to the conduct of an individual, for any month beginning after the President of the United States grants a pardon with respect to the conduct.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq., R.S. 36:474, R.S. 46:231.1.B.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 25:2454 (December 1999).

§1253. Strikers

A. FITAP benefits cannot be paid to families in which the caretaker relative or stepparent is participating in a strike on the last day of the month and, if any other member of the household is participating in a strike, his or her needs cannot be considered in computing the FITAP benefits.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq., R.S. 36:474, and R.S. 46:231.1(B).

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 25:2454 (December 1999).

§1257. Reporting Requirements

A. Effective February 1, 2004, a FITAP household that is not included in a SNAP Simplified reporting household shall report any change that affects eligibility or the amount of monthly benefits. The specified dollar amounts of change for earned or unearned income that trigger a report shall be adjusted annually in accordance with 7 CFR §273.12(a)(1)(i)(D). Changes shall be reported within 10 days of the knowledge of the change.

B. A FITAP household that is included in a SNAP Simplified Reporting household is subject to the simplified household reporting requirements in accordance with §2013 and must report if the only eligible child moves out of the home or if any eligible child is certified for Foster Care.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq., R.S. 36:474, R.S. 46:231 et seq. 7 CFR Part 273, 42 U.S.C. 608, et seq.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 28:522 (March 2002), amended LR 30:1486 (July 2004), LR 32:264 (February 2006), amended by the Department of Children and Family Services, Economic Stability and Self-Sufficiency Section, LR 36:2524 (November 2010), amended by the Department of Children and Family Services, Economic Stability Section, LR 45:1440 (October 2019).

§1259. Use of FITAP Benefits

A. FITAP benefits shall not be used in any electronic benefit transfer transaction in:

1. any liquor store;

2. any gambling casino or gaming establishment;

3. any retail establishment that provides adult-oriented entertainment in which performers disrobe or perform in an unclothed state for entertainment purposes, any adult bookstores, any adult paraphernalia store, or any sexually oriented business;

4. any tattoo, piercing, or commercial body art facility;

5. any nail salon;

6. any jewelry store;

7. any amusement ride, amusement attraction, or video arcade;

8. any bail bonds company;

9. any night club, bar, tavern, or saloon;

10. any cruise ship;

11. any psychic business; or

12. any establishment where persons under age 18 are not permitted.

B. FITAP benefits shall not be used in any electronic benefit transfer transaction at any retailer for the purchase of:

1. an alcoholic beverage as defined in R.S. 14.93.10(3);

2. a tobacco product as defined in R.S. 14.91.6(B);

3. a lottery ticket as defined in R.S. 47:9002(2); or

4. jewelry.

C. For purposes of this Section, the following definitions and provisions apply.

1. The term *liquor store* is defined as any retail establishment that sells exclusively or primarily intoxicating liquor. It does not include a grocery store that sells both intoxicating liquor and groceries, including staple foods.

2. The terms *gambling casino* and *gaming establishment* do not include a grocery store that sells groceries, including staple foods, and that also offers, or is located within the same building or complex as casino, gambling, or gaming activities, or any other establishment that offers casino, gambling, or gaming activities incidental to the principal purpose of the business.

3. The term *electronic benefit transfer transaction* means the use of a credit or debit card service, automated teller machine, point-of-sale terminal, or access to an online system for the withdrawal of funds or the processing of a payment for merchandise or a service.

4. The term *commercial body art facility* is defined as any location, place, area, or business whether permanent or temporary, which provides consumers access to personal services workers who for remuneration perform any of the following procedures:

a. tattooing or the insertion of pigment under the surface of the skin of a human being, by pricking with a needle or otherwise, to produce an indelible mark or figure visible under the skin;

b. body piercing or the creation of an opening in the body of a human being for the purpose of inserting jewelry or other decoration; but does not for the purposes of this Part, include piercing an ear with a disposable, single use stud or solid needle that is applied using a mechanical device to force the needle or stud through the ear; or

c. the application of permanent cosmetics or pigments under the skin of a human being for the purpose of permanently changing the color or other appearance of the skin, including but not limited to permanent eyeliner, eye shadow, or lip color.

5. *Adult paraphernalia store* is defined as an establishment having a substantial or significant portion of its stock, including but not limited to, clothing, objects, tools, or toys which are distinguished or characterized by their association with sexual activity, including sexual conduct or sexual excitement.

6. *Sexually oriented business* is defined as any commercial enterprise that has as its primary business the offering of a service or the sale, rent, or exhibit of devices or any other items intended to provide sexual stimulation or sexual gratification to the customer.

7. *Nail salon* is defined as a commercial establishment that provides nail services of any kind including, but not limited to trimming, filing, decorating, shaping, sculpting, or in any way caring for the nails and skin of another person's hands or feet together with massaging the hands, arms, legs, and feet.

8. *Jewelry* is defined as consisting of precious stones and/or precious metals worn as adornment or apparel. This includes costume *jewelry*.

9. *Amusement attraction* is defined as any building or structure which provides amusement, pleasure, thrills, or excitement. This includes movie theaters and video arcades. *Amusement attraction* does not include any enterprise principally devoted to the exhibition of products of agriculture, industry, education, science, religion, or the arts.

10. *Amusement ride* is defined as any mechanized device or combination of devices which carries passengers along, around, or over a fixed or restricted course for the purpose of giving its passengers amusement, pleasure, thrills, or excitement. This includes inflatables.

11. *Bail* is defined as security given by a person to assure his appearance, or a third-party's, before the proper court whenever required.

12. *Bar* is defined as business that holds a class A-general retail permit and the primary purpose of such business is to serve alcoholic beverages for consumption by guests on the premises and in which the serving of food is only incidental to the consumption of those beverages, including but not limited to, taverns, nightclubs, cocktail lounges, and cabarets, as further defined by R.S. 1300:253.

13. *Cruise ship* is defined as any commercial ship used for the domestic or international carriage of passengers.

14. *Psychic* is defined as any person or establishment engaged in the occupation of occult science including a fortune-teller, palmist, astrologist, numerologist, clairvoyant, craniologist, phrenologist, card reader, spiritual reader, tea leaf reader, prophet, *psychic* or advisor or who in any other manner claims or pretends to tell fortunes or claims or pretends to disclose mental faculties of individuals for any form of compensation.

D. The FITAP case of a FITAP recipient who is determined to have violated the provisions of this Section shall be closed for the following time periods:

1. 12 months for the first offense;

2. 24 months for the second offense; and

3. permanently for the third offense.

AUTHORITY NOTE: Promulgated in accordance with P.L. 112-96.

HISTORICAL NOTE: Promulgated by the Department of Children and Family Services, Economic Stability Section, LR 39:3061 (November 2013), amended LR 40:1520 (August 2014).

Subchapter C. Recovery

§1285. IV-D Recovery of Support Payments

A. When assigned child support payments are received and retained by the FITAP applicant/recipient, responsibility is placed with the IV-D agency (Child Support Enforcement Services) to recover all such payments. The only exception is a direct payment retained by the recipient during the period when the sanction for failure to cooperate is in effect.

B. In providing for this policy the IV-D staff must:

1. document that the recipient has received and retained direct payments, and the amounts;

2. provide a written notice of intent to recover the payments to the recipient including:

a. an explanation of the recipient's responsibility to cooperate by turning over direct payments as a condition of eligibility for FITAP, and a sanction for failure to cooperate as provided at 45 CFR 232.12(d);

b. a detailed list of the direct payments as documented by IV-D, including dates and amounts of payments and description of documentary evidence possessed by IV-D;

c. a proposal for a repayment agreement related to the recipient's income and resources including the FITAP grant and the total amount of retained support;

d. providing the opportunity for the recipient to have an informal meeting to clarify his responsibilities and to resolve any differences regarding repayment.

C. The IV-D Agency (Child Support Enforcement Services) must refer the case to IV-A (FITAP Program) with evidence of failure to cooperate if the recipient refuses to sign a repayment agreement or signs an agreement but subsequently fails to make a payment. IV-D must also notify IV-A if a recipient later consents to an agreement or if the recipient who defaulted on the agreement begins making regularly scheduled payments.

D. To recover amount due from any period of default, the IV-D Agency (Child Support Enforcement Services) must extend the duration of the agreement.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq., R.S. 36:474, R.S. 46:231.1.B.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 25:2454 (December 1999).

Chapter 15. General Program Administration

Subchapter A. Fraud

§1501. Fraud Control Program

A. The Office of Family Support maintains a Fraud Control Program in the Family Independence Temporary Assistance Program (FITAP) Program.

B. Under this program, the Office of Family Support may:

1. implement an administrative hearing procedure for FITAP fraud cases; and

2. disqualify the adult found guilty of FITAP fraud by a court or in an administrative hearing;

3. cash assistance shall be denied to an individual for 10 years from the date that individual is convicted in federal or state court of having made a fraudulent statement or representation with respect to his place of residence in order to receive assistance simultaneously from two or more states. This does not apply with respect to a conviction of an individual, for any month beginning after the President of the United States grants a pardon with respect to the conduct which was the subject of the conviction.

C. If an individual who is a member of a family applying for or receiving FITAP is found by a federal or state court or by an administrative hearing to have intentionally made a false or misleading statement or misrepresented, concealed, or withheld facts, or committed any act intended to mislead, misrepresent, conceal or withhold facts or propound a falsity, for the purpose of establishing or maintaining the family's eligibility for aid or of increasing or preventing a reduction in benefits, then that individual's needs shall not be taken into account in making the eligibility or benefits determination. That individual shall be disqualified for a period of 12 months for the first offense, 24 months for the second offense, and permanently for the third offense.

D. Each applicant shall be provided with a written notice of the penalties for fraud at the time of FITAP application.

AUTHORITY NOTE: Promulgated in accordance with P.L. 100-203 and CFR 235, P.L. 104-193, amended in accordance with P.L. 110-246.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, LR 14:439 (July 1988), amended by the Department of Social Services, Office of Family Support, LR 20:1019 (September 1994), LR 23:449 (April 1997), amended by the Department of Children and Family Services, Economic Stability and Self-Sufficiency Section, LR 36:2524 (November 2010).

Subchapter B. Recovery

§1503. Recovery of Overpayments

A. All FITAP overpayments shall be subject to collection either by recoupment or recovery with the exception of inadvertent household error claims and administrative error claims of less than $125 for nonparticipating households.

B. Action will be taken to recover all claims for participating households and claims which are determined to be the result of intentional program violation.

AUTHORITY NOTE: Promulgated in accordance with P.L. 104-193.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Family Security, LR 10:1030 (December 1984), amended by the Department of Social Services, Office of Family Support, LR 24:353 (February 1998), LR 27:428 (March 2001), LR 34:2678 (December 2008), amended by the Department of Children and Family Services, Economic Stability Section, LR 39:2192 (August 2013), amended by the Department of Children and Family Services, Economic Stability Section, LR 45:1440 (October 2019)..

§1506. Special Considerations in Determining Recovery Amounts

A. If the payee fails to report a child's absence of more than a 45-day duration by the end of the five-day period that begins with the date that it became clear to the payee that the child would be absent for a 45-day period, and good cause for the absence is not established, the needs of the payee as well as the needs of the child will be excluded when determining the recovery amount.

AUTHORITY NOTE: Promulgated in accordance with P.L. 104□193.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 23:449 (April 1997).

Subchapter C. Confidentiality

§1507. Disclosing Information Concerning Fugitive Felons

A. OFS may disclose, to state and local law enforcement officers, the current address of any FITAP recipients who are fugitive felons if the law enforcement officer gives the agency the recipient's name and Social Security number and satisfactorily demonstrates that the recipient is a fugitive felon.

AUTHORITY NOTE: Promulgated in accordance with P.L. 98-369 and F.R. 49:35586 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Family Security, LR 10:1030 (December 1984).

Title 67
SOCIAL SERVICES
Part III. Family Support
Subpart 3. Supplemental Nutritional Assistance Program (SNAP)

Editor's Note: As of January 1, 2010, the Food Stamp Program was renamed the Supplemental Nutritional Assistance Program (SNAP).

Chapter 17. Administration

Subchapter A. General Provisions

§1701. Authority

A. The Supplemental Nutrition Assistance Program (SNAP) is administered under the authority of applicable federal and state laws.

AUTHORITY NOTE: Promulgated in accordance with applicable Sections of 7 CFR and R.S. 36:474, P.L. 110-246.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 17:1226 (December 1991), amended LR 24:108 (January 1998), amended by the Department of Children and Family Services, Economic Stability and Self-Sufficiency Section, LR 36:2525 (November 2010).

Subchapter B. General Administrative Requirements

§1703. Supplemental Nutrition Assistance Program (SNAP) Manual

A. Rules and regulations regarding the implementation of the Food and Nutrition Act of 2008 (P.L. 110-246) have been adopted effective January 1, 2010.

B. The Office of the State Register has determined that publication of these rules would be unduly cumbersome and exercised its privilege to omit them from the *Louisiana Register*, as per R.S. 49:954.1(C). The new Supplemental Nutrition Assistance Program (SNAP) Manual may be obtained from the Department of Children and Family Services, Post Office Box 94065, Baton Rouge, Louisiana 70804. Also, copies of the SNAP Manual are available for public inspection at each departmental parish office and on the DCFS website at www.dcfs.louisiana.gov.

AUTHORITY NOTE: Promulgated in accordance with F.R. 43:47846 et seq. and R.S. 49:954.1(C), 7 CFR 271 et seq., P.L. 110-246.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Family Security, LR 4:511 (December 1978), amended by the Department of Children and Family Services, Economic Stability and Self-Sufficiency Section, LR 36:2525 (November 2010).

§1705. Outreach

A. The Outreach Program will be discontinued but program informational material will continue to be available.

AUTHORITY NOTE: Promulgated in accordance with F.R. 46:44712 et seq., 7 CFR 272.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Family Security, LR 8:10 (January 1982).

§1709. Purchasing Prepared Meals

A. Effective May 1, 1987 homeless Supplemental Nutrition Assistance Program (SNAP) recipients (including newly eligible residents of temporary shelters for the homeless) may use their SNAP benefits to purchase prepared meals served by an authorized public or nonprofit establishment that feeds homeless people.

AUTHORITY NOTE: Promulgated in accordance with F.R. 52:7554 et seq., 7 CFR 274, P.L. 110-246.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Family Security, LR 13:437 (August 1987), amended by the Department of Children and Family Services, Economic Stability and Self-Sufficiency Section, LR 36:2525 (November 2010).

§1711. Disabled People in Group Living Arrangements

A. All individuals residing in group living arrangements who meet the Food and Nutrition Act of 2008 definition of *disabled* (as defined in Section 3(r) of the Food and Nutrition Act) are eligible to receive SNAP benefits to purchase their prepared meals.

AUTHORITY NOTE: Promulgated in accordance with 7 CFR 271.2, 273.1(e)(1)(iii), 278.1(f), P.L. 110-246.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 18:1267 (November 1992), amended by the Department of Children and Family Services, Economic Stability and Self-Sufficiency Section, LR 36:2525 (November 2010).

Subchapter C. Disaster Supplemental Nutrition Assistance Program (DSNAP)

§1713. Emergency Food Assistance Program for Disaster Victims

A. Under the authority of Food and Nutrition Act of 2008 and 7 CFR Part 280, the Department of Children and Family Services does hereby establish an Emergency Food Assistance Program for Victims of Disaster.

B. This program provides emergency Disaster Supplemental Nutrition Assistance Program (DSNAP) benefits to households in an area which has been included in a disaster declaration. The Secretary of the U.S. Department of Agriculture (USDA), or his designee, determines the areas

to be included in such a declaration, the temporary eligibility standards, grant amounts, and duration of the program.

C. In order for a parish or community to be eligible for inclusion in a DSNAP declaration, the following criteria must be met.

1. Normal commercial channels for food distribution were disrupted by the disaster.

2. Normal food distribution channels were restored.

3. The normal, ongoing Supplemental Nutrition Assistance Program is unable to expeditiously handle the volume of households affected by the disaster.

AUTHORITY NOTE: Promulgated in accordance with 7 CFR 280 and Section 5(h)(1) of the Food Stamp Act of 1977, P.L. 110-246.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 19:213 (February 1993), amended by the Department of Children and Family Services, Economic Stability and Self-Sufficiency Section, LR 36:2525 (November 2010).

Chapter 19. Certification of Eligible Households

Subchapter A. Household Concept

§1901. Household Composition

A. The definition of a household includes an individual or a group of individuals who live together and customarily purchase food and prepare meals together for home consumption.

B. Separate household status may not be granted to the following individuals or groups of individuals, even if they purchase and prepare meals separately:

1. spouses who live together;

2. natural, adopted or step-children, age 21 or under who live with their parents.

C. The definition of a household provides that elderly individuals (and their spouses) who cannot prepare their own meals because they suffer from disabilities considered permanent under the Social Security Act or some other physical or mental non-disease-related disabilities may be a separate household even if living and eating with others. This is limited to those cases where the gross income of the individuals with whom the elderly or disabled person resides does not exceed 165 percent of the poverty level.

AUTHORITY NOTE: Promulgated in accordance with F.R. 46:44712 et seq., F.R. 47:52328 et seq., F.R. 47:55463 et seq. and 47:55903 et seq., 7 CFR 273.1, P.L. 100-77, P.L. 103-66, P.L. 104-193.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Family Security, LR 8:9 (January 1982), amended LR 9:62 (February 1983), LR 9:131 (March 1983), LR 14:87 (February 1988), amended by the Department of Social Services, Office of Family Support, LR 2:186 (February 1995), LR 23:79 (January 1997).

§1903. Boarder

A. Effective February 1, 1989 foster children are to be considered "boarders" and must be certified under the provisions governing boarder status in Section C-140 and E-210 of the FAM-4. The provision under E-211.1 which prohibits granting boarder status to children under 18 years of age who are under the parental control of an adult household member does not apply with regard to foster children. In addition, the foster care payments must be excluded from consideration as income to the household providing the foster care.

B. However, foster care households continue to have the option to treat the foster children as members of the household in accordance with current boarder policy. The entire foster care payments would then count as income to the household.

AUTHORITY NOTE: Promulgated in accordance with 7 CFR 273.1.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Eligibility Determinations, LR 15:393 (May 1989).

§1905. Definition of Elderly and Disabled

A. Effective August 1, 1986, the definition of elderly and disabled member has been expanded to read as follows. A member of a household who:

1. is 60 years of age or older;

2. receives Supplemental Security Income benefits under Title XVI of the Social Security Act or disability or blindness payments under Titles I, II, X, XIV, or XVI of the Social Security Act;

3. receives federally or state-administered supplemental benefits under Section 1616(a) of the Social Security Act provided that the eligibility to receive the benefits is based upon the disability or blindness criteria used under Title XVI of the Social Security Act;

4. receives federally or state-administered supplemental benefits under Section 212(a) of P.L. 93-66;

5. receives disability retirement benefits from a governmental agency because of a disability considered permanent under Section 221(i) of the Social Security Act;

6. a veteran with a service-connected or non-service-connected disability rated by the Veteran's Administration (VA) as total or paid as total by the VA under Title 38 of the United States Code;

7. is a veteran considered by the VA to be in need of regular aid and attendance or permanently housebound under Title 38 of the United States Code;

8. is a surviving spouse of a veteran and considered by the VA to be in need of regular aid and attendance or permanently housebound or a surviving child of a veteran and considered by the VA to be permanently incapable of self-support under Title 38 of the United States Code; or

9. is a surviving spouse or surviving child of a veteran and considered by the VA to be entitled to compensation for a service-connected death or pension benefits for a non-service-connected death under Title 38 of the United States Code and has a disability considered permanent under Section 221(i) of the Social Security Act. *Entitled* as used in this definition refers to those veterans' surviving spouses and surviving children who are receiving the compensation or pension benefits stated or have been approved for such payments, but are not yet receiving them;

10. receives an annuity payment under Section 2(a)(1)(iv) of the Railroad Retirement Act of 1974 and is determined to be eligible to receive Medicare by the Railroad Retirement Board; or Section 2(a)(i)(v) of the Railroad Retirement Act of 1974 and is determined to be disabled based upon the criteria used under Title XVI of the Social Security Act.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:953(B), 7 CFR 273.1.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Family Security, LR 12:768 (November 1986).

Subchapter B. Application Processing

§1907. Expedited Service—Initial and Subsequent Month Benefits

A. Eligible households that apply after the fifteenth of the month under the expedited processing standards shall be certified the initial month with prorated benefits and for the subsequent month with full benefits.

AUTHORITY NOTE: Promulgated in accordance with F.R. 46:44712 et seq., and 7 CFR 273.2.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Family Security, LR 8:10 (January 1982), amended by the Department of Children and Family Services, Economic Stability Section, LR 40:1312 (July 2014).

§1911. Households Eligible for Expedited Service

A. Expedited service is defined as the providing of Supplemental Nutrition Assistance Program (SNAP) benefits no later than seven calendar days from the application date.

B. Households entitled to receive benefits under the SNAP Program's expedited service procedure are defined as follows:

1. those households whose combined gross income and liquid resources are less than the household's monthly rent or mortgage and utilities;

2. households whose countable gross monthly income is less than $150 and whose countable liquid resources are $100 or less;

3. migrant or seasonal households who are destitute and whose countable liquid resources are $100 or less.

C. Verification shall be required of income and liquid resources to the extent practical within the expedited service time frame.

AUTHORITY NOTE: Promulgated in accordance with F.R. 46:44712 et seq., F.R. 52:36390 et seq., 7 CFR 273.2, P.L. 104-193, P.L. 110-246..

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Family Security, LR 8:10 (January 1982), amended LR 14:150 (March 1988), amended by the Department of Social Services, Office of Family Support, LR 23:80 (January 1997), amended by the Department of Children and Family Services, Economic Stability and Self-Sufficiency Section, LR 36:2525 (November 2010).

§1913. Determination of Eligibility of Migrant or Seasonal Farmworkers

A. Two provisions of the Drought Relief Act changed SNAP's procedures pertaining to the determination of eligibility and benefit levels for migrant or seasonal farmworkers. This is effective for applications received as of September 1, 1988 or allotments issued for the month of September, 1988.

1. Proration of Initial Month's Benefits. The first provision affects the proration of benefits after a break in participation in SNAP. This provision requires that migrant and seasonal farmworkers receive the full allotment for a month of application when the household has participated in the program within 30 days prior to the date of application. Thus, unless the household's break in participation exceeds 30 days, the migrant or seasonal farm worker household is eligible for a full month's allotment, rather than a prorated allotment, in the month of application.

2. Income Exclusion for Emergency PA or GA Assistance Payments. The second provision provides an income exclusion for any emergency PA or GA assistance payment which is provided to a third party on behalf of the migrant or seasonal farmworker household (i.e., vendor payments) while the household is in the job stream. This assistance may include, but is not limited to emergency vendor payments for housing or transportation.

AUTHORITY NOTE: Promulgated in accordance with 7 CFR 273.2, P.L. 110-246.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Eligibility Determinations, LR 14:871 (December 1988), amended by the Department of Social Services, Office of Family Support, LR 24:1782 (September 1998), amended by the Department of Children and Family Services, Economic Stability and Self-Sufficiency Section, LR 36:2526 (November 2010).

§1915. Homeless SNAP Household

A. The definition of "homeless SNAP household" is being replaced by the definition of a "homeless individual."

B. *Homeless Individual*—individual who lacks a fixed and regular nighttime residence or an individual whose primary nighttime residence is:

1. a supervised shelter designed to provide temporary accommodations (such as a welfare hotel or congregate shelter);

2. a halfway house or similar institution that provides temporary residence for individuals intended to be institutionalized;

3. a temporary accommodation for not more than 90 days in the residence of another individual; or

4. a place not designed for, or ordinarily used, as a regular sleeping accommodation for human beings (a hallway, a bus station, a lobby or similar places).

AUTHORITY NOTE: Promulgated in accordance with F.R. 52:7554 et seq, F.R. 52:36390 et seq., 7 CFR 273.2, P.L. 104-193, P.L. 110-246.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Family Security, amended LR 13:437 (August 1987), LR 14:87 (February 1988), amended by the Department of Social Services, Office of Family Support LR 23:80 (January 1997), amended by the Department of Children and Family Services, Economic Stability and Self-Sufficiency Section, LR 36:2526 (November 2010).

§1917. Homeless Meal Provider

A. A *homeless meal provider* is a public or private nonprofit establishment, (e.g., soup kitchen, temporary shelter) approved by the department, that feeds homeless SNAP households. To be eligible to accept SNAP benefits, a meal provider must also be authorized by Food and Nutrition Services (FNS) after the department approves it.

B. The provider must serve meals that include food purchased by the establishment. A meal provider serving only meals which consist wholly of donated foods is not eligible for authorization.

C. Only those SNAP households determined to be homeless shall be permitted to use SNAP benefits to purchase prepared meals served by authorized homeless meal providers. To ensure that the use of SNAP benefits for prepared meals is restricted to homeless persons, homeless meal providers shall establish that person's right to use SNAP benefits to purchase meals.

D. Applicant meal providers must apply for approval at the departmental office in their parish. An approval review at the provider's establishment will be conducted by the regional agency representative. After approval has been granted by the department, the provider must then make application to an FNS field office to receive authorization to accept SNAP benefits.

E. Homeless meal providers may accept SNAP benefits as authorized retail redemption points after authorization from the department and FNS. The provider will receive settlement from the Federal Treasury as an electronic deposit directly to the provider’s account at a financial institution. Homeless meal providers that redeem SNAP benefits in excess of $100 per month will be provided equipment that will allow acceptance, redemption and settlement of program funds electronically. Others may participate by using manual vouchers.

F. The use of SNAP benefits to purchase meals from homeless meal providers is voluntary on the part of SNAP recipients. SNAP recipients must continue to be given the option of using cash if payment for a meal is required. In addition, if others have the option of eating free or making a monetary donation, homeless SNAP recipients must be given the same option (eat free, or donate money or SNAP benefits). The amount requested from homeless SNAP recipients using SNAP benefits to purchase meals may not exceed the average cost to the homeless meal provider of the food contained in a meal served to the patrons of the meal provider. If a homeless recipient voluntarily pays more than the average cost of food contained in a meal served, such payment may be accepted by the meal provider.

G. Homeless meal providers will not be permitted to serve as "authorized representative" for homeless SNAP households.

AUTHORITY NOTE: Promulgated in accordance with F.R. 52:7554 et seq., 7 CFR 273.2, P.L. 110-246.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Family Security, LR 13:437 (August 1987), amended by the Department of Social Services, Office of Family Support, LR 24:1782 (September 1998), LR 29:606 (April 2003), amended by the Department of Children and Family Services, Economic Stability and Self-Sufficiency Section, LR 36:2526 (November 2010).

§1919. Certification of Information

A. Effective August 1, 1986, one adult member in all applicant households must certify in writing under penalty of perjury, the truth of the information contained in the application for the household's allotment.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:953(B), 7 CFR 273.2, P.L. 110-246.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Family Security, LR 12:768 (November 1986), amended by the Department of Children and Family Services, Economic Stability and Self-Sufficiency Section, LR 36:2526 (November 2010).

§1921. SSI and Supplemental Nutrition Assistance Program (SNAP) Application by Residents of Public Institutions

A. Effective May 1, 1989 residents of public institutions who apply for SSI prior to their release from an institution under the Social Security Administration's Prerelease Program for the Institutionalized (42 U.S.C. 1383) shall be permitted to apply for SNAP benefits at the same time they apply for SSI.

B. When a resident of an institution is jointly applying for SSI and SNAP prior to leaving the institution, the filing date of the application to be recorded by the department on the application is the date of release of the applicant from the institution.

C. The department shall make an eligibility determination and issue SNAP benefits to a resident of a public institution who applies jointly for SSI and SNAP within 30 days (or five days if expedited processing is appropriate) following the date of the applicant's release from the institution. Expedited processing time standards for an applicant who has applied for SNAP and SSI prior to release shall also begin on the date of the applicant's release from the institution. SSA shall notify the department of the date of release of the applicant from the institution.

D. If, for any reason, the department is not notified on a timely basis of the applicant's release date, the department shall restore benefits to such applicant back to the date of release.

AUTHORITY NOTE: Promulgated in accordance with F.R. 54:4249 et seq., 7 CFR 273.2, P.L. 110-246.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Eligibility Determinations, LR 15:497 (June 1989), amended by the Department of Children and Family Services, Economic Stability and Self-Sufficiency Section, LR 36:2526 (November 2010).

§1923. Verification

A. Effective April 1, 1987, in addition to federally required verification, the department may mandate verification of any other factor which affects household eligibility or allotment level, including household size.

AUTHORITY NOTE: Promulgated in accordance with F.R. 52:26937 et seq., 7 CFR 273.2, P.L. 110-246.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Family Security, LR 13:657 (November 1987), amended by the Department of Children and Family Services, Economic Stability and Self-Sufficiency Section, LR 36:2527 (November 2010).

§1927. Disclosure of Information

A. Effective February 1, 1985, use or disclosure of information obtained from SNAP applicant households, exclusively for SNAP, shall be restricted to the following persons:

1. persons directly connected with the administration or enforcement of the provisions of the Food and Nutrition Act or regulations, other federal assistance programs, or federally assisted state programs which provide assistance, on a means-tested basis, to low income individuals;

2. employees of the Comptroller General's Office of the United States for audit examination authorized by any other provision of law; and

3. local, state or federal law enforcement officials, upon their written request, for the purpose of investigating an alleged violation of the Food and Nutrition Act or regulations. The written request shall include the identity of the individual requesting the information, and his authority to do so, the violation being investigated and the identity of the person on whom the information is requested.

B. If there is a written request by a responsible member of the household, its currently authorized representative, or a person acting on its behalf to review material and information contained in its casefile, the material and information contained in the casefile shall be made available for inspection during normal business hours. However, the state agency may withhold confidential information, such as the names of individuals who have disclosed information about the household without the household's knowledge, or the nature or status of pending criminal prosecutions.

AUTHORITY NOTE: Promulgated in accordance with F.R. 49:48677 et seq., 7 CFR 273.2, P.L. 110-246.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Family Security LR 11:349 (April 1985), amended by the Department of Children and Family Services, Economic Stability and Self-Sufficiency Section, LR 36:2527 (November 2010).

§1928. Verification of Eligibility

A. The Office of Family Support shall require verification of residency requirements, the identity of the person making application and continuing shelter charges.

B. The Office of Family Support may, with prior food and nutrition service approval, require additional verification of other eligibility factors as indicated by quality control reviews, audits, or other special reviews.

C. The agency will require verification of necessary information within 10 days. Failure to provide such verification may result in rejection of the application unless the household has requested additional time in which to obtain the verification or assistance in obtaining the verification. If the case is closed due to failure to submit required verification and the verification is subsequently provided within the initial 30-day period, the application will be reactivated retroactively to the date of application. If the verification is provided in the second 30-day period, the application will be reactivated and benefits will be prorated from the date the missing verification is provided.

AUTHORITY NOTE: Promulgated in accordance with F.R. 46:3194 et seq., 7 CFR 273.2, 7 CFR 273.3.c.(1)(ii).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Family Security, LR 7:265 (May 1981), amended by Department of Social Services, Office of Family Support, LR 22:286 (April 1996), LR 25:710 (April 1999).

Subchapter C. Reserved (for Residency)

Subchapter D. Citizenship and Alien Status

§1931. Qualified Aliens

A. In addition to U.S. citizens, the following qualified aliens are eligible for benefits:

1. an alien who is lawfully admitted for permanent residence under the Immigration and Nationality Act;

2. an alien who is granted asylum under Section 208 of such Act;

3. a refugee who is admitted to the United States under Section 207 of such Act;

4. an alien who is paroled into the United States under Section 212(d)(5) of such Act for a period of at least one year;

5. an alien whose deportation is withheld under §243(h) of such Act [as in effect immediately before the effective date (April 1, 1997) of §307 of Division C of Public Law 104-208] or §241(b)(3) of such Act [as amended by §305(a) of Division C of Public Law 104-208];

6. an alien who is granted conditional entry pursuant to §203(a)(7) of such Act as in effect prior to April 1, 1980; or

7. an alien who is a *Cuban* or *Haitian* entrant, as defined in §501.e of the Refugee Education Assistance Act of 1980;

8. an alien who has been battered or subjected to extreme cruelty in the United States by a spouse or parent, or by a member of the spouse's or parent's family residing in the same household as the alien if the spouse or parent consented to, or acquiesced in, such battery or cruelty. The individual who has been battered or subjected to extreme cruelty must no longer reside in the same household with the individual who committed the battery or cruelty. The agency must also determine that a substantial connection exists between such battery or cruelty and the need for the benefits to be provided. The alien must have been approved or have a petition pending which contains evidence sufficient to establish:

a. the status as a spouse or a child of a United States citizen pursuant to Clause (ii), (iii), or (iv) of §204(a)(1)(A) of the Immigration and Nationality Act (INA); or

b. the classification pursuant to Clause (ii) or (iii) of Section 204(a)(1)(B) of the INA; or

c. cancellation of removal under Section 1229b of the INA (as in effect prior to April 1, 1997); or

d. the status as a spouse or child of a United States citizen pursuant to Clause (i) of §204(a)(1)(A) of the INA, or classification pursuant to Clause (i) of §204(a)(1)(B) of the INA;

e. cancellation of removal pursuant to Section 1229b(b)(2) of the INA;

9. an alien child of a battered parent or the alien parent of a battered child as described in §1931.A.8; or

10. an alien who is the victim of a severe form of trafficking in persons;

11. an Iraqi or Afghan immigrant who has been granted Special Immigrant Visa (SIV) status.

AUTHORITY NOTE: Promulgated in accordance with P.L. 104-193, P.L. 104-208, P.L. 105-33, P.L. 105-185, and P.L. 106-386.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Family Security, LR 9:130 (March 1983), amended by the Department of Social Services, Office of Family Support, LR 25:710 (April 1999), LR 28:1600 (July 2002), amended by the Department of Children and Family Services, Economic Stability and Self-Sufficiency Section, LR 36:2527 (November 2010).

§1933. Non-Qualified Aliens

A. The following aliens may be eligible for an indefinite period of time even though they are not qualified aliens.

1. Individuals who are lawfully residing in the United States and were members of a Hmong or Highland Laotians tribe at the time the tribe rendered assistance to the United States personnel by taking part in a military rescue operation during the Vietnam era beginning August 5, 1964 and ending May 7, 1975, as defined in §101 of Title 38, *United States Code*; the spouse or an unmarried, dependent child of such an individual; or the unremarried surviving spouse of such an individual who is deceased.

2. Individuals who are American Indian born in Canada to whom the provisions of §289 of the Immigration and Nationality Act apply or who is a member of an Indian tribe as defined in §4(e) of the Indian Self-Determination and Education Assistance Act.

AUTHORITY NOTE: Promulgated in accordance with P.L. 105-185.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 25:711 (April 1999).

§1934. Alien Eligibility Criteria

A. The following qualified aliens are eligible for benefits:

1. refugees admitted under §207 of the Immigration and Nationality Act (INA);

2. asylees admitted under §208 of the INA; and

3. an alien whose deportation is withheld under §243(h) of such ACT (as in effect immediately before effective date [April 1, 1997] of §307 of division C of P.L. 104-208) or §241(b)(3) of such Act (as amended by Section 305(a) of Division C of P.L. 104-208);

4. *Cuban* and *Haitian* entrants as defined in §501(e) of the Refugee Education Assistance Act of 1980;

5. *Amerasian* immigrants admitted pursuant to §584 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act of 1988 as contained in §101(e) of P.L. 100-202 and amended by the 9th provision under migration and refugee assistance in Title II of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1989, P.L. 100-461,as amended;

6. an alien who is the victim of a severe form of trafficking in persons;

7. veterans who have met the minimum active-duty service requirements of Section 5303 A(d) of Title 38, United States Code, who were honorably discharged for reasons other than alienage and their spouses or unremarried surviving spouses, if the marriage fulfills the requirements of Section 1304 of Title 38, United States Code, and unmarried dependent children;

8. active-duty personnel (other than active duty for training) and their spouses, or unremarried surviving spouses, if the marriage fulfills the requirements of Section 1304 of Title 38, United States Code, and unmarried dependent children;

9. aliens who have worked 40 qualifying quarters of coverage under Title II of the Social Security Act or can be credited with such qualifying quarters;

10. effective October 1, 2002, individuals who are lawfully residing in the United States and are receiving benefits or assistance for blindness or disability as defined in §3(r) of the Food Stamp Act of 1997;

11. individuals who were lawfully residing in the United States on August 22, 1996 and were 65 years of age or older;

12. effective October 1, 2003, individuals who are lawfully residing in the United States and are under 18 years of age;

13. effective April 1, 2003, individuals who have been lawful, permanent residents or otherwise qualified aliens for at least five years beginning on the date the immigrant was designated as a qualified alien by the Immigration and Naturalization Service;

14. an Iraqi or Afghan immigrant who has been granted Special Immigrant VISA (SIV) status.

AUTHORITY NOTE: Promulgated in accordance with P.L. 104-193, P.L. 105-33, P.L. 105-185, P.L. 107-171, and P.L. 111-118.

HISTORICAL NOTE: Promulgated by the Department of Children and Family Services, Economic Stability and Self-Sufficiency Section, LR 36:2527 (November 2010).

Subchapter E. Students

§1935. Student Provisions (Effective March 1, 2006)

A. An individual enrolled at least half-time (as defined by the institution) in an institution of higher education is considered a student. A student is ineligible to receive SNAP benefits unless the individual meets at least one of the following conditions:

1. under age 18 or over age 49;

2. physically or mentally unfit;

3. receiving FITAP benefits;

4. employed an average of at least 20 hours per week, and be paid for such employment, or if self-employed, employed for an average of at least 20 hours per week and receives weekly earnings at least equal to the federal minimum hourly wage multiplied by 20 hours;

5. participating in a state or federally financed work-study program during the regular school year;

6. participating in an on-the-job training program;

7. responsible for the care of a dependent household member who is:

a. under age 6; or

b. age 6 or over but under age 12 and adequate child care is not available;

8. is a single parent who is a full-time student (as defined by the institution) and who is responsible for the care of a dependent child under age 12, regardless of the availability of adequate child care;

9. assigned to or placed in an institution of higher education through or in compliance with the requirements of one of the following:

a. the work program under Title IV of the Social Security Act, which is the Strategies to Empower People (STEP) Program;

b. the Workforce Innovation and Opportunity Act of 2015;

c. a SNAP employment and training program subject to the condition that the course or program of study is part of a program of career and technical education as defined in section 3 of the Carl D Perkins Career and Technical Education Act of 2006 (20 U.S.C 2302) designed to be completed in not more than four years at an institution of higher education or is limited to remedial course, basic adult education, literacy, or English as a second language;

d. a program under Section 236 of the Trade Act of 1974; or

e. a state or local government employment and training program.

B. An institution of higher education is a:

1. business, technical, trade, or vocational school that normally requires a high school diploma or equivalency certificate (GED) for enrollment in the curriculum; or

2. college or university that offers degree programs regardless of whether a high school diploma or equivalency certificate (GED) is required.

AUTHORITY NOTE: Promulgated in accordance with 7 CFR 273.5., P.L. 107-171, P.L. 110-246.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Family Security, LR 9:131 (March 1983), amended by the Department of Social Services, Office of Family Support, LR 24:1783 (September 1998), LR 32:1616 (September 2006), amended by the Department of Children and Family Services, Economic Stability and Self-Sufficiency Section, LR 36:2528 (November 2010), amended by the Department of Children and Family Services, Economic Stability Section, LR 45:1440 (October 2019).

Subchapter F. Reserved (for Social Security Numbers)

Subchapter G. Work Requirements

§1938. Work Registration Requirements

A. Each household member who is not exempt from work registration shall be registered for employment before certification and recertification as a condition of eligibility. At the time of application, the state agency shall explain to the applicant the consequences of violation of the work requirements.

1. No individual physically and mentally fit and between the ages of 16 and 60, is eligible to participate if that individual:

a. refuses without good cause to provide sufficient information to allow a determination of his/her employment status or job availability;

b. voluntarily and without good cause quits a job;

c. voluntarily and without good cause reduces his/her work effort (and, after the reduction, is working less than 30 hours a week);

d. fails at certification and recertification to register for employment; or

e. refuses without good cause to accept an offer of employment.

2. If it is determined that an individual has violated the work requirements without good cause, that individual shall be ineligible to participate in SNAP as follows:

a. first sanction—until failure to comply ceases or one month, whichever is longer;

b. second sanction—until failure to comply ceases or three months, whichever is longer;

c. third or subsequent sanction—until failure to comply ceases or six months, whichever is longer.

3. If any individual who violated the work requirement joins another household, that individual shall be considered an ineligible household member.

B. Determining Whether a Work Requirement Violation Occurred

1. When a household files an application for participation, or when a participating household reports the loss of a source of income, the DCFS shall determine whether any household member:

a. refused without good cause to provide sufficient information to allow a determination of his/her employment status or job availability;

b. voluntarily and without good cause quit a job;

c. voluntarily and without good cause reduced his/her work effort (and, after the reduction, is working less than 30 hours a week);

d. refused without good cause, at the time of recertification, to register for employment;

e. refused without good cause to accept an offer of employment.

2. Benefits shall not be delayed beyond the normal processing times pending the outcome of this determination. This provision applies only if the employment involved 30 hours or more per week or provided weekly earnings equivalent to the federal minimum wage multiplied by 30 hours; the violation occurred within 60 days prior to the date of application or anytime thereafter, and was without good cause. Terminating a self-employment enterprise or resigning from a job at the demand of the employer will not be considered a violation for purpose of this Section. An employee of the federal government, or of a state or local government who participates in a strike against such government, and is dismissed from his or her job because of participation in the strike, shall be considered to have violated the work requirements without good cause.

3. If an application for participation is filed in the last month of the disqualification period, the eligibility worker shall use the same application for the denial of benefits in the remaining month of disqualification and certification for any subsequent month(s) if all other eligibility criteria are met.

4. Upon a determination that a violation of the work requirements occurred, the DCFS shall determine if the violation was with good cause. If it is determined that good cause does not exist, the sanction will be imposed. The DCFS shall provide the household with a notice of ineligibility. The notice shall inform the household of the proposed period of disqualification; its right to reapply at the end of the disqualification; and of its right to a fair hearing.

AUTHORITY NOTE: Promulgated in accordance with P.L. 104-193 and P.L. 110-246.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 23:80 (January 1997), amended by the Department of Children and Family Services, Economic Stability and Self-Sufficiency Section, LR 36:2528 (November 2010), amended by the Department of Children and Family Services, Economic Stability Section, LR 42:1651 (October 2016), LR 46:1218 (September 2020).

§1939. Work Exemption Guidelines

A. Exemptions from Work Registration. A parent or other household member who is responsible for the care of a dependent child under the age of 6 is exempt from work registration.

B. Job Search. The Office of Family Support has opted not to impose job search at the time of application.

AUTHORITY NOTE: Promulgated in accordance with F.R. 49:39035 et seq., 7 CFR 273.7; P.L. 104-193.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resource, Office of Family Security, LR 11:39 (January 1985), amended by the Department of Social Services, Office of Family Support, LR 23:81 (January 1997).

§1940. Work Participation Requirements for Able-Bodied Adults without Dependents [Effective 10/1/97 by Emergency Rule]

A. Individuals are ineligible to continue to receive SNAP benefits if, during the current 36-month fixed clock period they received SNAP benefits for at least 3 months (consecutive or otherwise) while that individual did not either:

1. work (including paid or unpaid) an average of 20 hours per week or participate in and comply with a program under Title 1 of the Workforce Innovation and Opportunity Act (WIOA), Trade Adjustment Assistance Act program, or employment and training program (other than a job search or job search training program) for an average of 20 hours per week;

2. participate in a combination of work and training as described in Paragraph A.1 of this Section for an average of 20 hours per week; or

3. participate in and comply with a workfare program.

B. An individual is exempt from this requirement if the individual is:

1. under age 18, or 50 years of age or older;

2. medically certified as physically or mentally unfit for employment;

3. residing in a SNAP household where a household member is under age 18, even if the household member who is under age 18 is not eligible to receive SNAP benefits;

4. pregnant; or

5. otherwise exempt from work registration requirements.

C. Individuals can regain eligibility for assistance.

1. Individuals denied eligibility under Subsection A of this Section can regain eligibility if during a 30-day period the individual:

a. works 80 hours or more, or participates in and complies with a Program under WIOA, Trade Adjustment Assistance Act Program, or Employment and Training Program (other than a job search or job search training program) for 80 hours or more; or

b. any combination of work and participation in a program identified in Subparagraph C.1.a. of this Section for a total of 80 hours or more; or

c. participates in and complies with a workfare program (under Section 20 of the Food and Nutrition Act of 2008 or a comparable state or local program) for 80 hours or more.

2. An individual who regained eligibility and who is no longer fulfilling the work requirement is eligible for three consecutive countable months one time during the 36-month fixed-clock period, starting on the date the individual first notifies the agency that he or she is no longer fulfilling the work requirement, unless the individual has been satisfying the work requirement by participating in a work, training, or workfare program, in which case the period starts on the date the agency notifies the individual that he or she is no longer meeting the work requirement.

AUTHORITY NOTE: Promulgated in accordance with P.L. 104-193, 7 CFR 273.24, and P.L. 110-246.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 23:81 (January 1997) amended LR 34:885 (May 2008), amended by the Department of Children and Family Services, Economic Stability and Self-Sufficiency Section, LR 36:2528 (November 2010), amended by the Department of Children and Family Services, Economic Stability Section, LR 42:1652 (October 2016), LR 46:1219 (September 2020).

§1941. Work Requirements of the SNAP Household

A. Persons losing exemption status due to any change in circumstances that are subject to the reporting requirements shall register for employment when the change is reported.

1. A person age 16 or 17 who is not head of household or who is attending school or enrolled in an employment training program on at least a half-time basis is exempt.

2. A household member subject to and complying with any work requirement under Title IV of the Social Security Act is also exempt.

B. Each household member who is not exempt must register for employment before certification and recertification. The department will explain to the applicant the pertinent work requirements, rights and responsibilities of work registered household members, and the consequences of failure to comply. A written statement of this will be given to each work registrant.

C. Employment and Training (E and T) Programs

1. The department submitted an Employment and Training Program Plan to the United States Department of Agriculture, Food and Nutrition Service (FNS) Dallas Regional Office and the FNS Office of Alexandria, Virginia. A copy of the plan is available for public inspection at the Supplemental Nutritional Assistance Program Office, 627 North Fourth Street, Baton Rouge, Louisiana 70802.

2. Work registrants shall:

a. respond to a request from the department or its designees for supplemental information regarding employment status or availability for work;

b. report to an employer to whom referred by the department or its designee if the potential employment meets the suitability requirements;

c. accept a bona fide offer of suitable employment at a wage not less than the higher of either the applicable state or federal minimum wage.

AUTHORITY NOTE: Promulgated in accordance with 7 CFR 273.7 (c) (2), P.L. 104-193, P.L. 110-246.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Family Security, LR 13:394 (July 1987), amended by the Department of Social Services, Office of Eligibility Determinations, LR 15:96 (February 1989), amended by the Department of Social Services, Office of Family Support, LR 18:748 (July 1992), LR 18:1268 (November 1992), LR 23:81 (January 1997), amended by the Department of Children and Family Services, Economic Stability and Self-Sufficiency Section, LR 36:2528 (November 2010), LR 46:1219 (September 2020).

Subchapter H. Resource Eligibility Standards

§1945. Resource Test

A. Effective June 1, 1983, households in which all members receive Family Independence Temporary Assistance (FITAP) and whose income meets the gross

income eligibility standards will be considered to have satisfied SNAP's resource test. However, the households must continue to meet all other SNAP eligibility standards, including the net income standards.

AUTHORITY NOTE: Promulgated in accordance with F.R. 47:55907 et seq., 7 CFR 273.8, P.L. 110-246.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Family Security, LR 9:324 (May 1983), amended by the Department of Children and Family Services, Economic Stability and Self-Sufficiency Section, LR 36:2528 (November 2010).

§1947. Resources

A. The following resources shall be countable resources:

1. cash on hand;
2. money in checking or savings accounts;
3. certificates of deposit;
4. stocks; and
5. bonds.

AUTHORITY NOTE: Promulgated in accordance with F.R. 7:55463 et seq. and 47:55903 et seq., 7 CFR 273.8, P.L. 103-66, P.L. 104-193, P.L. 106-387.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Family Security, LR 9:131 (March 1983), amended by the Department of Social Services, Office of Family Support, LR 21:187 (February 1995), LR 23:82 (January 1997), LR 27:867 (June 2001), LR 34:2679 (December 2008).

§1949. Exclusions from Resources

A. All resources other than those listed in Section 1947 of this Title shall be excluded from countable resources.

B. All of the resources of individuals who are included in a household that is categorically eligible are excluded.

AUTHORITY NOTE: Promulgated in accordance with F.R. 52:26937 et seq., 7 CFR 273.8 and 273.9C(v), P.L. 103-66, P.L. 106-387, 45 CFR 263.20, and P.L. 107-171, P.L. 110-246.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Family Security, LR 13:657 (November 1987), amended by the Department of Social Services, Office of Family Support, LR 18:1267 (November 1992), LR 21:187 (February 1995), LR 27:867 (June 2001), LR 27:1934 (November 2001), LR 28:1031 (May 2002), LR 29:606 (April 2003), LR 32:646 (April 2006), LR 34:2679 (December 2008), amended by the Department of Children and Family Services, Economic Stability and Self-Sufficiency Section, LR 36:2529 (November 2010).

Subchapter I. Income and Deductions

§1951. Strikers

A. For SNAP purposes, a striker is defined as anyone involved in a strike or concerted stoppage of work by employees (including a stoppage by reason of the expiration of a collective-bargaining agreement) and any concerted slowdown or other concerted interruption of operations by employees. Any employee engaged in a lockout, however, is not deemed to be a striker.

B. Strikers shall be subject to the work registration requirement unless otherwise exempt.

C. Effective March 1, 1983, households with striking members shall be ineligible to participate in SNAP unless the household was eligible for benefits the day prior to the strike and is otherwise eligible at the time of application. However, such a household shall not receive an increased allotment as the result of a decrease in the income of the striking member(s) of the household. Eligibility shall be determined by considering the day prior to the strike as if it were the day of application and assume the strike did not occur. Eligibility at time of application shall be determined by comparing the striking member's income before the strike to the striker's current income and adding the higher of the two to the current income of nonstriking members during the month of application. To determine benefits, deduction shall be calculated for the month of application as for any other household. Whether the striker's pre-striker earnings are used or his current income is used, the earnings deduction shall be allowed if appropriate.

AUTHORITY NOTE: Promulgated in accordance with F.R. 46:44712 et seq., F.R. 47:52328 et seq., 7 CFR 273.9, P.L. 110-246.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Family Security, LR 8:9 (January 1982), amended LR 9:62 (February 1983), amended by the Department of Children and Family Services, Economic Stability and Self-Sufficiency Section, LR 36:2529 (November 2010).

§1953. Income Eligibility Standards

A. The income eligibility standards for SNAP shall be as follows:

1. Gross Income. (All households except those specified in Paragraph 2 below.) The income eligibility standards for the contiguous 48 states and the District of Columbia, Guam, Puerto Rico and the Virgin Islands shall be 130 percent of the Office of Management and Budget's (OMB) nonfarm income poverty guidelines for the 48 states and the District of Columbia.

2. Net Income. For households which contain a member who is 60 years of age or over, or a member who receives Supplemental Security Income (SSI) benefits under Title XVI of the Social Security Act, or disability and blindness payments under Titles I, II, X, XIV of the Social Security Act, the net income eligibility standards for SNAP shall be as follows: The income eligibility standards for the contiguous 48 states and the District of Columbia, Guam, Puerto Rico and the Virgin Islands shall be the Office of Management and Budget's (OMB) nonfarm income poverty guideline for the 48 states and the District of Columbia.

3. Effective April 1, 1983, Section 12-236 will be revised to amend the income eligibility standards. Households with no elderly or disabled members will be subject to both the gross and net income eligibility tests. To be eligible, these households must meet both the net and gross income standards.

4. The income eligibility limits, as described in this Paragraph, are revised annually to reflect OMB's annual

adjustment to the nonfarm poverty guidelines for the 48 states and the District of Columbia, for Alaska, and for Hawaii.

AUTHORITY NOTE: Promulgated in accordance with F.R. 46:44712 et seq., F.R. 47:55463 et seq. and 47:55903 et seq., 7 CFR 273.9, P.L. 110-246.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Family Security, LR 8:9 (January 1982), amended LR 9:131 (March 1983), amended by the Department of Social Services, Office of Family Support, LR 29:606 (April 2003), amended by the Department of Children and Family Services, Economic Stability and Self-Sufficiency Section, LR 36:2529 (November 2010).

§1957. Income Eligibility and Benefit Level

A. For households containing a member age 60 or over or who receives SSI under Title XVI of the Social Security Act or disability and blindness payments under Titles I, II, X, XIV, or XVI of the Social Security Act, income eligibility shall be based on net income.

B. For all other households, income eligibility shall be based on gross income.

C. All eligible one and two-person households shall receive a minimum monthly allotment of 8 percent of the thrifty food plan for one person except when proration of initial month's benefits occurs. No issuance shall be made for the initial month for allotments less than $10 due to proration. For those eligible households with three or more members, which are entitled to no benefits except for the initial month due to proration, the eligibility worker shall deny the household's participation, on the grounds that its net income exceeds the level below which benefits are issued.

D. The level of benefits for all eligible households shall be based upon net monthly income.

AUTHORITY NOTE: Promulgated in accordance with F.R. 46:44712 et seq., 7 CFR 273.9.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Family Security, LR 8:10 (January 1982), amended by the Department of Social Services, Office of Family Support, LR 35:689 (April 2009), amended by the Department of Children and Family Services, Economic Stability Section, LR 45:1441 (October 2019).

§1959. Thrifty Food Plan

A. Effective April 1, 1982, the Thrifty Food Plan amounts shall be adjusted to the nearest dollar increment to reflect changes in the Consumer Price Index for all Urban Consumers (CPI-U) for the cost of food, for the 15 months ending on December 31, 1981.

B. Effective July 1, 1983, the Thrifty Food plan amounts shall be adjusted to the nearest dollar amount to reflect changes in the CPI-U for the cost of food, for the 15 months ending March 31, 1983.

C. Effective October 1, 1984, the Thrifty Food Plan amounts shall be adjusted to the nearest dollar increment to reflect changes in the CPI-U for the cost of food, for the 15 months ending June 30, 1984.

D. Effective October 1, 1985, and each October 1 thereafter, the Thrifty Food Plan amounts shall be adjusted to the nearest dollar increment to reflect changes in the CPI-U for the cost of food, for the 12 months ending on the preceding June 30.

AUTHORITY NOTE: Promulgated in accordance with F.R. 46:44712 et seq., 7 CFR 273.9.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Family Security, LR 8:10 (January 1982).

§1961. Adjustment of Standard Deduction

A. Effective October 1, 2002, the standard deduction shall be set at 8.31 percent of the poverty level based on household size of up to six persons. The standard deduction will be adjusted in accordance with directives from the United States Department of Agriculture, Food and Nutrition Service.

AUTHORITY NOTE: Promulgated in accordance with F.R. 46:44712 et seq., 7 CFR 273.9, P.L. 107-171.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Family Security, LR 8:9 (January 1982), amended by the Department of Social Services, Office of Family Support, LR 29:606 (April 2003), amended by the Department of Children and Family Services, Economic Stability and Self-Sufficiency Section, LR 36:2529 (November 2010).

§1965. Standard Utility Allowance (SUA)

A. Households which incur heating or cooling costs separate and apart from their rent or mortgage use a mandatory single Standard Utility Allowance (SUA) in the determination of shelter costs and deductions. To be qualified, the household must be billed on a regular basis for heating or cooling costs. However, during the heating season a household that is billed less often than monthly, but is eligible to use the standard allowance, may continue to use the standard allowance between billing months. The SUA is available to those households receiving energy assistance payments or reimbursements but who continue to incur heating or cooling costs that exceed the payment during any month covered by the certification period.

B. Effective February 1, 2005, households living in public housing with shared meters that are only charged for excess utilities shall use the SUA if heating or cooling costs are incurred.

C. The full SUA shall be allowed to all parties who contribute to the utility costs, if these costs include heating or cooling costs, when the household shares a residence and utility costs with other individuals.

AUTHORITY NOTE: Promulgated in accordance with F.R. 47:51551 et seq., 7 CFR 272 and 273.9, P.L. 104-193, P.L. 107-171.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Family Security, LR 9:64 (February 1983), amended by the Department of Social Services, Office of Family Support, LR 21:187 (February 1995), LR 23:82 (January 1997), LR 24:108 (January 1998), LR 29:606 (April 2003), LR 31:1345 (June 2005).

§1966. Basic Utility Allowance (BUA)

A. Households which do not incur heating or cooling costs separate and apart from their rent or mortgage use a mandatory single Basic Utility Allowance (BUA). To be eligible, a household must be billed on a regular basis for utility costs.

B. Effective February 1, 2005, households living in public housing with shared meters that are only charged for excess utilities shall use the BUA if heating or cooling costs are not incurred.

C. The full BUA shall be allowed to all parties who contribute to the utility costs, if these costs do not include heating or cooling costs, when the household shares a residence and utility costs with other individuals.

AUTHORITY NOTE: Promulgated in accordance with P.L. 104-193 and P.L. 107-171.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 24:108 (January 1998), amended LR 29:606 (April 2003), LR 31:1345 (June 2005).

§1967. Setting the Standard Utility Allowance and the Basic Utility Allowance

A. Effective October 1, 1985, and each October 1 thereafter, the annualized standard utility allowance in the Supplemental Nutrition Assistance Program shall be adjusted to reflect changes in the cost of utilities.

B. The department will conduct an annual statewide survey of utility companies to determine the average monthly cost of utilities. This methodology is subject to approval by the United States Department of Agriculture Food and Nutrition Service. The standard allowance developed shall also be submitted to USDA FNS for approval.

AUTHORITY NOTE: Promulgated in accordance with 7 CFR 273.9(d)(6), P.L. 104-193, P.L. 110-246.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Family Security, LR 11:864 (September 1985), repromulgated by the Department of Social Services, Office of Family Support, LR 24:108 (January 1998), amended by the Department of Children and Family Services, Economic Stability and Self-Sufficiency Section, LR 36:2529 (November 2010).

§1968. Homeless Shelter Deduction

A. Homeless households in which all members are homeless individuals that are not receiving free shelter throughout the month and do not claim an excess shelter deduction shall be allowed the standard homeless shelter deduction. The value of the deduction is indexed based on inflation.

AUTHORITY NOTE: Promulgated in accordance with Section 5(e)(6)(D) of the Food and Nutrition Act of 2008, 7 USC §2014(e)(6)(D).

HISTORICAL NOTE: Promulgated by the Department of Children and Family Services, Economic Stability, LR 45:1441 (October 2019).

§1969. Standard Telephone Allowance

A. Effective May 1, 2002, all SNAP households whose only utility cost is a telephone shall use a mandatory standard telephone allowance of $24. Each October 1 thereafter, the mandatory standard telephone allowance shall be adjusted to reflect changes in the cost of basic telephone services.

B. The Office of Family Security will conduct an annual statewide survey of telephone companies to determine the average subject to approval by the United States Department of Agriculture Food and Nutrition Service. The standard allowance developed shall also be submitted to USDA FNS for approval.

AUTHORITY NOTE: Promulgated in accordance with 7 CFR 273.9(d)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Family Security, LR 11:1079 (November 1985), amended by the Department of Children and Family Services, Economic Stability and Self-Sufficiency Section, LR 36:2529 (November 2010).

§1971. Farm Self-Employment Income

A. Effective March 27, 1986, if the cost of producing self-employment income exceeds the income derived from self-employment as a farmer, such losses will be offset against other countable income in a household. To be considered a self-employed farmer, the farmer must receive or anticipate receiving annual gross proceeds of $1,000 or more from the farming enterprise. The same base that is used to determine income from self-employed farm operations shall be used to determine any net loss. Losses should be prorated over the year in a manner comparable to that used to prorate farm self-employment income.

AUTHORITY NOTE: Promulgated in accordance with F.R. 51:6511 et seq., 7 CFR 273.9.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Family Security, LR 12:366 (June 1986).

§1973. Diverted Income

A. Effective April 1, 1987, assistance payable for living expenses by Public Assistance (PA) or local General Assistance (GA) Programs, or other basic assistance programs comparable to GA as determined by the secretary of USDA shall be with certain exceptions, considered income to a household if diverted to a third party on behalf of the household.

B. General Assistance (GA) is defined as cash or another form of assistance excluding in-kind assistance, financed by state or local funds as part of a program which provides assistance to cover living expenses or other basic needs intended to promote the health or well-being of recipients.

C. A PA or GA payment which is not made directly to the household, but paid to a third party on behalf of the household to pay a household expense, shall be considered an excludable vendor payment and not counted as income to the household if such PA or GA payment is for:

1. medical assistance;

2. child care assistance;

3. energy assistance; or

4. housing assistance payments made to a third party on behalf of a household residing in temporary housing, if the temporary housing unit provided for the household as a result of such assistance lacks facilities for the preparation and cooking of hot meals or the refrigerated storage of food for home consumption, provided that such vendor payments shall be excluded under this provision if paid to the housing provider during the period beginning October 20, 1987 and ending September 30, 1989.

D. Assistance financed by state or local funds which is provided over and above the normal PA or GA grant or payment, or is not normally provided as part of such grant or payment would be considered emergency or special assistance and excluded as income if provided to a third party on behalf of the household.

AUTHORITY NOTE: Promulgated in accordance with F.R. 52:36390 et seq., 7 CFR 273.9.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Family Security, LR 14:150 (March 1988).

§1975. Earned Income Tax Credits (EITC)

A. Exclude EITC as resources for 12 months from receipt.

AUTHORITY NOTE: Promulgated in accordance with 7 CFR 273.9 and P.L. 103-66. P.L. 110-246.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Eligibility Determinations, LR 15:393 (May 1989), amended by the Department of Social Services, Office of Family Support, LR 21:188 (February 1995), amended by the Department of Children and Family Services, Economic Stability and Self-Sufficiency Section, LR 36:2530 (November 2010), amended by the Department of Children and Family Services, Division of Programs, Economic Stability Section, LR 37:2368 (August 2011).

§1977. Cash Charitable Contributions

A. Effective immediately, cash charitable contributions based on need, which are received from private nonprofit charitable organizations, not in excess of $300 total per federal fiscal year quarter, shall be excluded as SNAP household income.

B. Affected households are entitled to the income exclusion beginning with the second federal fiscal year quarter of 1988 (January, 1988 through March, 1988) but not prior to February 1, 1988. Consequently a household which received $100 in January, 1988, another $100 in February and $250 in March from private nonprofit charitable organizations would be entitled to an income exclusion for the $100 received in February and $200 of the $250 received in March for a total income exclusion of $300 in that quarter.

C. Affected households which were denied benefits because the household's eligibility or benefit calculation during the second federal fiscal year quarter of 1988 (but not prior to February 1, 1988) did not include this income exclusion shall be entitled to restored benefits, if otherwise eligible, at the time of recertification, whenever the household requests a review of its case, or when the department otherwise becomes aware that a review of a particular case is needed. Restored benefits shall be paid to February 1, 1988, or the date of the SNAP application, whichever is later.

AUTHORITY NOTE: Promulgated in accordance with F.R. 53:22291 et seq., 7 CFR 273.9, P.L. 11-246.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Eligibility Determinations, LR 14:708 (October 1988), amended by the Department of Children and Family Services, Economic Stability and Self-Sufficiency Section, LR 36:2530 (November 2010).

§1978. Income Decreased for Failure to Comply with Another Program

A. Effective November 27, 1996, an increase in SNAP benefits is prohibited when a household's benefit from another federal, state or local means-tested assistance program is decreased (reduced, suspended or terminated) due to failure to comply with a requirement of the program that imposed the benefit decrease.

B. The procedures for determining SNAP benefits when there is such a decrease in income are as follows.

1. When a recipient's benefits under a federal, state, or local means-tested program (such as but not limited to SSI or FITAP) is decreased due to noncompliance, SNAP identifies that portion of the decrease which is a penalty.

2. The department calculates the SNAP benefits using the benefit amount which would be issued by that program if a penalty had not decreased the recipient's benefit.

AUTHORITY NOTE: Promulgated in accordance with F.R. 61:19155 et seq., 7 CFR 272.1, 273.9 and 273.11, P.L. 104-193, P.L. 110-246.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, amended LR 22:1141 (November 1996), amended by the Department of Children and Family Services, Economic Stability and Self-Sufficiency Section, LR 36:2530 (November 2010).

§1979. Income

A. Earnings to individuals who are participating in on-the-job training programs under the Workforce Investment Act (formerly the Job Training Partnership Act) shall be counted as income. This provision does not apply to household members under 19 years of age who are under the parental control of another adult member.

AUTHORITY NOTE: Promulgated in accordance with F.R. 52:26937 et seq., 7 CFR 273.9, P. L. 107-171.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Family Security, LR 13:657 (November 1987), amended LR 32:1616 (September 2006).

§1980. Income Exclusions

A. In addition to those income exclusions previously adopted and codified in Chapter 19, Certification of Eligible Households, the following income types will be excluded from countable income for the Supplemental Nutrition Assistance Program (SNAP):

1. payments or allowances to provide energy assistance under any federal law, including the Department of Housing and Urban Development and the Farmers Home Administration, except that provided under title IV-A;

2. earnings of an elementary or secondary student through age 17 who is the child of, or under parental control of, a member of the household;

3. legally obligated child support payments to non-household members are excluded when determining eligibility based on gross income standards;

4. effective October 1, 2004, additional pay received and made available to the household by a member of the United States Armed Forces deployed to a designated combat zone;

5. agent orange settlement payments income (retroactive to 01-01-89);

6. agriculture and stabilization and conservation service payments received as a result of a presidentially-declared disaster or emergency;

7. assistance payments income that is being recouped for overpayment of non-fraud overpayments;

8. bonus income that is non-recurring or cannot be anticipated to recur;

9. child care food program payments received for the client's own children;

10. child support income received by FITAP/KCSP recipients, which must be transferred to IV-D to maintain eligibility;

11. child support arrearage payments that were previously counted as income or payment that is a one-time non-recurring lump-sum payment;

12. deposits made into joint accounts when the joint account is considered a convenience account, the income deposited into the account is verified to be a loan, or the account is considered inaccessible to the household;

13. disaster payments provided to rebuild a home or replace personal possessions damaged in a disaster if the household is subject to legal sanction if the funds are not used as intended. This includes individual and family grant payments or small business administration loans;

14. disaster relief income funded under national emergency grants or disaster unemployment assistance paid to an individual who is unemployed as a result of a major disaster;

15. the prorated portion of the income for persons disqualified for SSNs, for ineligible aliens, or for persons who failed to attest to citizenship/alien status;

16. Delta Service Corps income if the allowances, earnings, and payments to individuals participating in the programs are received under title I of the National and Community Service Act;

17. Domestic Volunteer Service Act income received by volunteers for services performed in programs stipulated in title II of the amended Domestic Volunteer Service Act of 1973 (P.L. 93-118), which include Foster Grandparents and Retired Senior Volunteer Program; or payments received by volunteers for services in programs under title I (VISTA) if the person was receiving food stamps or public assistance when he joined VISTA or the household was receiving an income exclusion for a title I subsistence allowance at the time of conversion to the Food Stamp Act of 1977;

18. Indian and native claims and lands income received:

a. under Public Law 94-189, (Sac and Fox Indian Claims Agreement);

b. under Public Law 94-540, (Grand River Band of Ottawa Indians);

c. under Public Law 95-433, section 2, Confederated Tribes and Bands of the Yakima Nation and the Apache Tribe of the Mescalero Reservation received from the Indian Claims Commission;

d. by certain Indian tribal members under Public Law 94-114, section 6, regarding submarginal lands held in trust by the United States;

e. under Public Law 93-531 (Navajo and Hopi Tribes);

f. tax-exempt portions made pursuant to Public Law 92-203, The Alaska Native Claims Settlement Act; or

g. under Public Law 96-420 (Passamaquoddy Tribe and Penobscot Nation, or the Houlton Band of Maliseet Indians pursuant to the Maine Indian Claims Settlement Act of 1980);

19. Indian gambling operations income paid to children under 18 when the household is not given a choice and the money is deposited in an inaccessible trust fund;

20. in-kind income not in the form of money payable directly to the household except earned income vendor payments made by the employer instead of all or part of the salary;

21. irregular and unpredictable income when the anticipated income will be less than $30 in a three-month period, and the income is received too infrequently and irregularly to be reasonably anticipated;

22. strategies to empower people (STEP) payments for supportive services;

23. loans;

24. non-recurring lump-sum payments;

25. crime victim compensation payments made to a client whose assistance is necessary, in full or in part, because of the commission of a crime against the client, and to the extent it is sufficient to fully compensate the client for losses suffered as a result of the crime;

26. National and Community Service Corporation payments for living allowance (stipend) and child care received by participants as well as in-kind benefits provided to the participants;

27. non-household member's portion of income that is received by a household member which is intended and used for care and maintenance of a third-party beneficiary who is not a household member;

28. nutrition programs income—the value of supplemental food assistance under the Child Nutrition Act of 1966 and under the Special Food Service Program for Children (the National School Lunch Act) or benefits received under title VII, Nutrition Program for the Elderly, of the Older Americans Act of 1965;

29. payments made to victims of Nazi persecution;

30. payments made to persons through the Radiation Exposure Compensation Act, which was enacted October 15, 1990;

31. railroad retirement income that is being recouped for a prior overpayment;

32. reimbursement income which:

a. is not a gain or benefit to the household;

b. is not provided specifically for normal living expenses; or

c. does not exceed the actual expenses for which the reimbursement was paid;

33. relocation assistance income if received under title II of the Uniform Relocation Assistance and Real Property Acquisitions Policies Act of 1970;

34. Senior Community Service Employment Program (SCSEP) income received by individuals 55 or older;

35. supplemental security income that is being recouped for non-fraud SSI overpayment;

36. unemployment compensation benefits that are paid as the result of unemployment due to a major disaster and funded through the Robert T. Stafford Disaster Relief and Emergency Assistance Act;

37. vendor payments made by a person or organization outside the household/assistance unit directly to the client's creditor or to a person or organization providing the service unless:

a. the vendor payment is made by an employer instead of all or part of the salary;

b. it is a local GA vendor payment provided to cover housing expenses exclusive of energy or utility expenses; or

c. the vendor payment is made in lieu of payments which are legally obligated to the household;

38. severance pay received in a single lump-sum payment;

39. payments made through the wartime relocation of civilians law:

a. payments of $20,000 made to eligible persons of Japanese ancestry who were interned during World War II, or such payments made to the spouse, children or parents if the eligible individual is deceased;

b. payments of $12,000 made to eligible Aleuts who were relocated from their home on the Pribolof or Aleutian Islands to an internment camp during World War II, or such payments made to an individual who was born while his mother was relocated;

40. effective March 1, 2006, dividend income;

Exception: Dividends received from a resource-exempt trust fund will not be excluded as income.

41. effective March 1, 2006, interest income;

42. effective March 1, 2006, education assistance;

43. any payments other than wages received as a result of the Mississippi Canyon 252 well incident in the Gulf of Mexico on April 20, 2010; or

44. grant-funded research payments.

B. Any type of income excluded when determining eligibility or benefits for cash assistance as defined by 45 CFR 260.31(a)(1) and (a)(2), will be excluded from countable income for SNAP, except for those types determined countable by 7 CFR 273.9(c)(19), such as wages, salaries, etc.

AUTHORITY NOTE: Promulgated in accordance with P.L. 103-66, 7 CFR 273.9(c)(11), P.L. 104-193, P.L. 107-171, P.L. 108-447, and CFR 273.2(j).

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 21:188 (February 1995), amended LR 23:82 (January 1997), LR 29:607 (April 2003), LR 31:2956 (November 2005), LR 32:1616 (September 2006), amended by the Department of Children and Family Services, Economic Stability and Self-Sufficiency Section, LR 36:2530 (November 2010), amended by the Department of Children and Family Services, Economic Stability Section, LR 42:1652 (October 2016).

§1981. Child Support Deduction

A. Legally obligated child support payments to, or for, an individual living outside of the household must be included in the deductions from the total monthly income when a budget for SNAP eligibility is determined. Households that fail or refuse to obtain necessary verification of their legal obligation or of their child support payments will have their eligibility and benefit level determined without consideration of a child support deduction.

AUTHORITY NOTE: Promulgated in accordance with F.R. 59:63265 et seq., 7 CFR 271, 273, 275, P.L. 110-246.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 21:958 (September 1995), amended by the Department of Children and Family Services, Economic Stability and Self-Sufficiency Section, LR 36:2530 (November 2010).

§1983. Income Deductions and Resource Limits

A. In determining eligibility and benefit levels, the household is allowed deductions for certain costs.

1. The earned income deduction is 20 percent of total countable gross earnings. The earned income deduction is not allowed on any portion of income earned under a work supplementation or support program that is attributable to public assistance.

2. For fiscal year 2002 and each subsequent fiscal year, the maximum shelter deduction will be computed based on the amount for the preceding fiscal year, adjusted to reflect changes in the Consumer Price Index for All Urban Consumers for the 12-month period ending the preceding November 30.

3. The dependent care deduction is the amount billed to a member of the household for the cost of caring for a child or an incapacitated adult who lives in the home.

a. A child care expense that is paid for or reimbursed by the STEP Program or the Child Care Assistance Program is not deductible except for that portion of the cost which exceeds the payment or reimbursement.

B. For federal fiscal year 2011 and each subsequent federal fiscal year, the resource limit will be calculated based on changes in the Consumer Price Index for all urban consumers for the 12-month period ending the preceding June and will be rounded down to the nearest $250 increment. The resource limit for a household is $2,000, and effective October 1, 2011, the resource limit for a household that includes at least one elderly or disabled member is $3,250 for households and individuals who are not categorically eligible.

AUTHORITY NOTE: Promulgated in accordance with 7 CFR 273.9 (d)(2) and (d)(6), P.L. 104-193, P.L. 106-387 and P.L. 107-171; Act 58, 2003 Reg. Session, P.L. 110-246, and Section 5(g) of the Food, Conservation and Energy Act of 2008 (FECA).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Family Security, LR 12:423 (July 1986), amended LR 13:181 (March 1987), LR 15:14 (January 1989), amended by the Department of Social Services, Office of Family Support, LR 19:905 (July 1993), LR 21:188 (February 1995), LR 23:82 (January 1997), LR 27:867 (June 2001), LR 27:1934 (November 2001), LR 29:607 (April 2003), LR 30:495 (March 2004), LR 35:689 (April 2009), amended by the Department of Children and Family Services, Economic Stability and Self-Sufficiency Section, LR 36:2530 (November 2010), amended by the Department of Children and Family Services, Division of Programs, Economic Stability and Self-Sufficiency, LR 38:350 (February 2012).

Subchapter J. Determining Household Eligibility and Benefit Levels

§1985. Determining Eligibility

A. Effective March 1, 1983, the Supplemental Nutrition Assistance Program's State Manual has been revised to reflect these mandated changes.

1. Verification shall be required, prior to certification or recertification of the household, of all factors of eligibility which are determined questionable and affect the household's eligibility and benefit level. The definition of questionable information is amended to include any information deemed by the eligibility worker to be inconsistent as established by the agency. Questionable information could be information that is inconsistent with other information on the application, or inconsistent with other information received by the agency. It could also be any information that seems inconsistent with the household's situation and raises reasonable doubt about certain factors of eligibility. The eligibility worker may not use these procedures to require additional verification based on race, religion, ethnic background, or national origin. The eligibility worker shall not target groups such as migrants and American Indians for additional verification.

2. Any member whose citizenship is questionable shall be declared ineligible to participate until proof of U.S. citizenship is obtained. Until proof of U.S. citizenship is obtained, the member whose citizenship is in question will have his or her income, less a pro rata share, and all of his or her resources considered available to any remaining household members.

3. Collateral contacts will be selected if the household fails to designate one or designates one which is unacceptable to the agency. If the agency designates a collateral contact, the agency shall not initiate contact with the designated collateral without providing prior written or oral notice to the household at the time of this notice, the agency shall inform the household that it has the following options: (1) consent to the contact, (2) provide acceptable verification in another form, or (3) withdraw its application. If the household refuses to choose one of these options, its application shall be denied in accordance with the normal procedures for failure to verify information.

4. Households participating or applying for participation in SNAP shall provide the agency with the Social Security Number (SSN) of each household member, or apply for one through the agency before certification as a condition of eligibility. The member that has applied for an SSN shall be allowed to participate for 30 days from the first day of the first full month of participation while awaiting receipt of the SSN. If the household member(s) can show good cause why an SSN has not been obtained in a timely manner, they shall be allowed to participate for an additional 30 days. In determining if good cause exists for failure to comply with this requirement, the department shall consider information from the household member, the Social Security Administration, and its own information. Documentary evidence or collateral information that the household has applied for the number or made every effort to supply SSA with the necessary information shall be considered good cause for not complying with this requirement.

AUTHORITY NOTE: Promulgated in accordance with F.R. 47:53309 et seq., 7 CFR 271, 272, 273.10, 274, P.L. 110-246.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Family Security, LR 9:64 (February 1983), amended by the Department of Social Services,

Office of Family Support, LR 24:1783 (September 1998), amended by the Department of Children and Family Services, Economic Stability and Self-Sufficiency Section, LR 36:2531 (November 2010).

§1987. Categorical Eligibility for Certain Recipients

A. Households Considered Categorically Eligible

1. Households in which all members are recipients of benefits from the FITAP, STEP, KCSP, and/or SSI, shall be considered categorically eligible for SNAP.

2. Recipient includes an individual determined eligible for TANF or SSI benefits, but the benefits have not yet been paid.

3. Recipient shall also include a person determined eligible to receive zero benefits, i.e., a person whose benefits are being recouped or a TANF recipient whose benefits are less than $10 and therefore does not receive any cash benefits.

4. A household shall not be considered categorically eligible if:

a. any member of that household is disqualified for an intentional program violation;

b. any member of that household is disqualified for being a fleeing felon or a probation or parole violator or for being convicted as an adult of certain crimes after February 7, 2014, and not in compliance with the terms of their sentence. These crimes include:

i. aggravated sexual abuse under section 2241 of Title 18, United States Code;

ii. murder under section 1111 of Title 18, United States Code;

iii. an offense under chapter 110 of Title 18, United States Code;

iv. a federal or state offense involving sexual assault, as defined in section 40002(a) of the Violence Against Women Act of 1994 (42 U.S.C. 13925(a)); or

v. an offense under state law determined by the attorney general to be substantially similar to an offense described in Clause A.4.b.i, ii, or iii of this Section.

c. the household was disqualified due to receipt of substantial lottery or gambling winnings equal to or greater than the elderly or disabled resource limit. If the household reapplies after losing eligibility due to these winnings, the household would not be considered categorically eligible and must meet the income and resource limit. The case would be processed under regular SNAP rules. This requirement only applies to the first time a household is certified following the loss of eligibility due to substantial lottery or gambling winnings.

5. The following persons shall not be considered a member of a household when determining categorical eligibility:

a. an ineligible alien;

b. an ineligible student;

c. an institutionalized person;

d. an individual who is disqualified for failure to comply with the work registration requirements;

e. an individual who is disqualified for failure to provide or apply for a Social Security number;

f. an individual who is on strike.

6. Households which are categorically eligible are considered to have met the following SNAP eligibility factors without additional verification:

a. resources;

b. Social Security numbers;

c. sponsored alien information;

d. residency.

7. These households also do not have to meet the gross and net income limits. If questionable, the factors used to determine categorical eligibility shall be verified.

8. Categorically eligible households must meet all SNAP eligibility factors except as outlined above.

9. Changes reported by categorically-eligible SNAP households shall be handled according to established procedures except in the areas of resources or other categorical eligibility factors.

10. Benefits for categorically-eligible households shall be based on net income as for any other household. One- and two-person households will receive a minimum benefit as required by 7 CFR 273.10(e)(2)(ii)(C). Households of three or more shall be denied if net income exceeds the level at which benefits are issued.

B. Application Processing

1. Households in which all members are applying for public assistance shall continue to be processed according to joint processing procedures. Until a determination is made on the public assistance application, the household's SNAP eligibility and benefit level shall be based on SNAP eligibility criteria. However, the local office shall postpone denying a potentially categorically-eligible household until the thirtieth day in case the household is determined eligible to receive public assistance benefits.

2. The household shall be informed on the notice of denial that it is required to notify the local office if its FITAP or SSI benefits are approved.

3. If the household is later determined eligible to receive public assistance benefits after the thirtieth day and is otherwise categorically eligible, benefits shall be provided using the original application along with other pertinent information occurring subsequent to the application.

4. The local office shall not reinterview the household but shall use any available information to update the application and/or make mail or phone contact with the household or authorized representative to determine any

changes in circumstances. Any changes shall be initialed and the updated application re-signed by the authorized representative or authorized household member.

5. If eligibility for public assistance is determined within the 30-day SNAP processing time, benefits shall be provided back to the date of application. If eligibility for public assistance is determined after the SNAP application is denied, benefits for the initial month shall be prorated from the effective date of the public assistance certification or the date of the SNAP application, whichever is later.

C. Certified households which become categorically eligible due to receipt of SSI benefits shall be eligible for the medical and uncapped shelter deductions from the beginning of the period for which the SSI benefits are authorized or the date of the SNAP application, whichever is later. These additional benefits shall be provided through restoration.

D. For SNAP purposes, refugee cash assistance (RCA) benefits are not considered public assistance and, therefore, an RCA household is not categorically eligible.

E. Households who receive a non-cash TANF/MOE funded benefit or service may be considered broad-based categorically eligible for Supplemental Nutritional Assistance Program (SNAP).

1. A household shall not be considered broad-based categorically eligible if:

a. any member of that household is disqualified for an intentional program violation; or

b. any member of that household is disqualified for being a fleeing felon or a probation or parole violator or for being convicted as an adult of certain crimes after February 7, 2014, and not in compliance with the terms of their sentence. These crimes include:

i. aggravated sexual abuse under section 2241 of Title 18, United States Code;

ii. murder under section 1111 of Title 18, United States Code;

iii. an offense under chapter 110 of Title 18, United States Code;

iv. a federal or state offense involving sexual assault, as defined in section 40002(a) of the Violence Against Women Act of 1994 (42 U.S.C. 13925(a)); or

v. an offense under state law determined by the attorney general to be substantially similar to an offense described in Clause A.4.b.i, ii, or iii of this Section.

2. The following persons shall not be considered a member of a household when determining broad-based categorical eligibility:

a. an ineligible alien;

b. an ineligible student;

c. an institutionalized person;

d. an individual who is disqualified for failure to comply with the work registration requirements;

e. an individual who is disqualified for failure to provide or apply for a social security number;

f. an individual who is on strike.

3. Households which are broad-based categorically eligible are considered to have met the resource eligibility factor without additional verification.

4. Broad-based categorically eligible households must meet all Supplemental Nutritional Assistance Program eligibility factors except as outlined above.

5. Benefits for broad-based categorically eligible households shall be based on net income as for any other household.

AUTHORITY NOTE: Promulgated in accordance with F.R. 51:28196 et seq., 7 CFR 271, 272, 273.10, and 274, F.R. 56:63612-63613, P.L. 104-193, 7 CFR 273.2(j)(2)(xi), Act 58, 2003 Reg. Session, 7 CFR 273.2, (j), and P.L. 110-246.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Family Security, LR 13:90 (February 1987), amended by the Department of Social Services, Office of Family Support, LR 18:1267 (November 1992), LR 24:1783 (September 1998), LR 26:349 (February 2000), LR 27:867 (June 2001), LR 27:1934 (November 2001), LR 30:495 (March 2004), amended by the Department of Children and Family Services, Economic Stability and Self-Sufficiency Section, LR 36:2531 (November 2010), amended by the Department of Children and Family Services, Economic Stability Section, LR 40:1312 (July 2014), LR 44:444 (March 2018), amended by the Department of Children and Family Services, Economic Stability Section, LR 45:1441 (October 2019), LR 46:1220 (September 2020).

§1988. Eligibility Disqualification of Certain Recipients

A. Fleeing felons and probation/parole violators are ineligible for benefits.

B. An individual convicted as an adult of certain crimes after February 7, 2014, and not in compliance with the terms of their sentence is ineligible for benefits. These crimes include:

1. aggravated sexual abuse under section 2241 of Title 18, United States Code;

2. murder under section 1111 of Title 18, United States Code;

3. an offense under chapter 110 of Title 18, United States Code;

4. a federal or state offense involving sexual assault, as defined in section 40002(a) of the Violence Against Women Act of 1994 (42 U.S.C. 13925(a)); or

5. an offense under state law determined by the attorney general to be substantially similar to an offense described in Clause A.4.b.i, ii, or iii of this Section.

C. The household is disqualified due to receipt of substantial lottery or gambling winnings equal to or greater than the elderly or disabled resource limit.

AUTHORITY NOTE: Promulgated in accordance with P.L. 104-193, R.S. 46:233.1, P.L. 105-33, and P.L. 110-246.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 23:83 (January 1997), amended LR 23:590 (May 1997), LR 23:1710 (December 1997), LR 24:1783 (September 1998), amended by the Department of Children and Family Services, Economic Stability and Self-Sufficiency Section, LR 36:2532 (November 2010), amended by Department of Children and Family Services, Economic Stability Section, LR 44:445 (March 2018), LR 46:1221 (September 2020).

§1991. Initial Month's Benefits

A. *Effective 10/1/96 by ER* Initial month means either the first month for which an allotment is issued to a household, or the first month for which an allotment is issued to a household following any period during which the household was not certified for participation in SNAP.

B. A household's benefit level for the initial month of certification will be based on the day of the month it applies for benefits. Using a 30-day calendar or fiscal month, households shall receive benefits prorated from the day of application to the end of the month. A household applying on the thirty-first of a month will be treated as though they applied on the thirtieth of the month.

C. Households who have applied for initial month's benefits after the fifteenth of the month, completed the application, provided all required verification, and have been determined eligible to receive benefits for the initial month of application and the next subsequent month shall receive their prorated allotment for the initial month of application and their first full month's allotment at the same time. In determining initial month benefits, the result of the proration will be rounded down to the nearest lower dollar increment. If the calculation results in an allotment of less than $10, then no benefits will be issued.

AUTHORITY NOTE: Promulgated in accordance with F.R. 46:44712 et seq., F.R. 47:55463 et seq. and 47:55903 et seq., 7 CFR 273.10, P.L. 103-66, P.L. 104-193. P.L. 110-246.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Family Security, LR 8:10 (January 1982), amended LR 9:131 (March 1983), amended by the Department of Social Services, Office of Family Support, LR 21:188 (February 1995), LR 23:83 (January 1997), amended by the Department of Children and Family Services, Economic Stability and Self-Sufficiency Section, LR 36:2532 (November 2010), amended by the Department of Children and Family Services, Economic Stability, LR 45:1441 (October 2019).

§1993. Replacement of Benefits

A. Replacement issuances shall be provided only if a household timely reports a loss (food purchased with SNAP benefits has been destroyed in a household misfortune) and executes the proper affidavit. Replacement issuances shall be provided in the amount of the loss to the household, up to a maximum of one month's allotment, unless the issuance includes restored benefits which shall be replaced up to their full value.

B. If the signed statement or affidavit is not received by the agency within 10 days of the date of report, no replacement shall be made. If the tenth day falls on a weekend or holiday, and the statement is received the day after the weekend or holiday, the agency shall consider the statement timely received. Replacement issuances shall be provided to households within 10 days after report of loss or within two working days of receiving the signed affidavit, whichever date is later.

AUTHORITY NOTE: Promulgated in accordance with F.R. 54:6989 et seq., 7 CFR 273.10, P.L. 110-246.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Eligibility Determinations, LR 15:629 (August 1989), amended by the Department of Social Services, Office of Family Support, LR 19:783 (June 1993), LR 24:1783 (September 1998), amended by the Department of Children and Family Services, Economic Stability and Self-Sufficiency Section, LR 36:2532 (November 2010).

Subchapter K. Action on Households with Special Circumstances

§1995. Sponsored Aliens

A. The full amount of income and resources of an alien's sponsor and the sponsor's spouse are counted in determining the eligibility and allotment level of a sponsored alien until the alien becomes a citizen or has worked 40 qualifying quarters of Social Security coverage. These provisions do not apply to battered aliens, their children, the alien parent of a battered child, or effective October 1, 2003, any alien under 18 years of age, or an indigent alien that the state agency has determined is unable to obtain food and shelter, taking into account the alien’s own income plus, any cash, food, housing, or other assistance provided by other individuals, including the sponsor(s).

AUTHORITY NOTE: Promulgated in accordance with F.R. 47:55463 et seq. and 47:55903 et seq., 7 CFR 273.11, P.L. 104-193, P.L. 104-208, P.L. 105-33, and P.L. 107-171, and 7CFR 273.4 (c)(3)(iv).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Family Security, LR 9:130 (March 1983), amended by the Department of Social Services, Office of Family Support, LR 23:83 (January 1997), LR 24:355 (February 1998), LR 30:493 (March 2004), amended by the Department of Children and Family Services, Economic Stability and Self-Sufficiency Section, LR 36:2532 (November 2010).

§1997. Drug and Alcohol Treatment Centers

A. Residents of publicly operated community mental health centers which provide the same type of residential programs for alcoholic or drug rehabilitation as private, nonprofit institutions will be considered individual households and, if eligible, may participate in SNAP.

B. Drug addicts or alcoholics and their children who are residents in an approved public or private, drug or alcohol treatment center program may participate in SNAP.

AUTHORITY NOTE: Promulgated in accordance with F.R. 51:6511 et seq., 7 CFR 273.11, P.L. 103-66, P.L. 110-246.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Family Security, LR 12:367 (June 1986), amended by the Department of Social Services, Office of Family Support, LR 21:189 (February 1995), amended by the Department of Children and Family Services,

Economic Stability and Self-Sufficiency Section, LR 36:2532 (November 2010).

Subchapter L. Reporting Changes

§1998. Reporting Requirements

A. Effective November 2009, all SNAP households are included in simplified reporting with the exception of households participating in the Louisiana Combined Application Project (LaCAP).

B. Simplified reporting households are required to report only:

1. changes in the household's gross monthly income which result in the household's income exceeding 130 percent of the monthly poverty income guideline for the household size;

2. changes in work or training hours of able-bodied adults without dependents (ABAWDs) who are subject to the time limit set forth in Section 1940 if the change results in the ABAWD working or participating in training an average of less than 20 hours per week; and

3. all SNAP households, including LaCAP and categorically eligible households, are required to report when a member of the household receives substantial lottery or gambling winnings equal to or exceeding the resource limit for elderly or disabled households won in a single game before taxes or other amounts are withheld. The winnings must be reported by the 10th of the month following the month the lottery or gambling winnings were won.

AUTHORITY NOTE: Promulgated in accordance with 7 CFR 273.12(a), P.L. 107-171.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 30:1486 (July 2004), amended LR 35:689 (April 2009), amended by the Department of Children and Family Services, Economic Stability and Self-Sufficiency Section, LR 36:2533 (November 2010), LR 46:1221 (September 2020).

Subchapter M. Notice of Adverse Action

§1999. Reduction or Termination of Benefits

A. A notice of adverse action shall be sent at least 13 days prior to taking action to reduce or terminate benefits. In some circumstances advance notice is not required. A concurrent notice shall be sent to the household at the time of action in the following situations:

1. the agency disqualifies a household member because of an intentional program violation and the benefits of the remaining household members are reduced or ended because of the disqualification;

2. benefits are reduced or terminated at the end of the certification period when the client timely reapplies;

3. the client has been certified in another state and that fact has been established;

4. the client signs a statement requesting closure or reduction in benefits and waives the right to advance notice;

5. benefits are reduced or terminated effective the month following the simplified report month;

6. the agency receives a written report signed by the head of the household or other responsible household member which provides sufficient information for the agency to determine the household's benefit amount or ineligibility;

7. mass changes;

8. based on reliable information, the agency determines that the household has moved or will be moving out of the state prior to the next monthly issuance;

9. the household applied for cash assistance and SNAP at the same time and has been getting SNAP benefits while waiting for approval of the cash assistance grant;

10. the client was a certified resident in a drug or alcohol treatment center or a group living arrangement which loses its state certification or FNS disqualifies it as a retailer;

11. a household certified under expedited processing rules provides postponed verification which reduces or terminates benefits.

B. A concurrent notice shall not be sent to the household at the time of action in the following situations:

1. all members of the household have died;

2. the household's allotment changes from month to month during the certification period because of changes expected at the time of certification;

3. the agency recoups benefits from a client who previously received a repayment demand letter; and

4. the Fraud and Recovery Section converts a cash payment to allotment reduction because the household failed to make agreed payments on a claim.

AUTHORITY NOTE: Promulgated in accordance with F.R. 7 CFR 273.12(a)(1)(vii) and P.L. 110-246.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Family Security, LR 9:324 (May 1983), amended by the Department of Social Services, Office of Family Support, LR 24:108 (January 1998), LR 32:2270 (December 2006), amended by the Department of Children and Family Services, Economic Stability and Self-Sufficiency Section, LR 36:2533 (November 2010), amended by Department of Children and Family Services, Economic Stability Section, LR 44:445 (March 2018).

Subchapter N. Recertification

§2003. Recertification of Supplemental Security Income Households

A. Supplemental security income households which have received a SNAP notice of expiration shall be entitled to make a timely application for SNAP recertification at the SSA office.

AUTHORITY NOTE: Promulgated in accordance with F.R. 46:44712 et seq., 7 CFR 273.14.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Family Security, LR 8:10 (January 1982), amended by the Department of Children and Family Services, Economic Stability and Self-Sufficiency Section, LR 36:2533 (November 2010).

Subchapter O. Reserved (for Fair Hearings)

Subchapter P. Recovery of Over-Issued SNAP Benefits

§2005. Claims Against Households

A. All adult household members are jointly and severally liable for the value of any over-issuance of benefits to the household. This is true regardless of whether the over-issuance resulted from inadvertent error, an administrative error or an intentional program violation.

B. Action will not be taken to recover claims which are less than $125 for inadvertent household error or an administrative error for nonparticipating households.

C. This threshold does not apply to claims for participating households, to claims which are determined to be the result of intentional program violation, or to errors which are discovered in a quality control review.

AUTHORITY NOTE: Promulgated in accordance with F.R. 48:6837 et seq., P.L. .97-35,97-253, 101-624 §1746, and 102-237 §911, 7 CFR 272,273, 276 and 277, P.L. 103-66, P.L. 104-193, P.L. 104-134, 7 CFR 3 Subpart B, and P.L. 110-246.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Family Security, LR 9:323 (May 1983), amended by the Department of Social Services, Office of Family Support, LR 18:1133 (October 1992), LR 20:899 (August 1994), LR 21:189 (February 1995), LR 22:584 (July 1996), LR 23:83 (January 1997), LR 23:1710 (December 1997), LR 24:2326 (December 1998), LR 27:1017 (July 2001), amended by the Department of Children and Family Services, Economic Stability and Self-Sufficiency Section, LR 36:2533 (November 2010), amended by the Department of Children and Family Services, Economic Stability Section, LR 39:2192 (August 2013), amended by the Department of Children and Family Services, Economic Stability Section, LR 45:1442 (October 2019).

§2007. Penalties

A. The Supplemental Nutrition Assistance Program (SNAP) shall maintain provisions relating to the disqualification penalties for intentional program violations. These provisions are aimed at deterring SNAP abuse and improving recovery of overpayments.

B. The basis for disqualification includes the intentional making of false or misleading statements, misrepresentations, or the concealment or withholding of facts, as well as the commission of any act that constitutes a violation of any state SNAP statute, and the use of SNAP benefits in certain illegal purchases. The program will not increase the benefits to the household of a disqualified person because of the disqualification.

1. Mandatory disqualification periods of one year for the first offense, two years for the second offense, and permanently for the third offense will be imposed against any individual found to have committed an intentional program violation, regardless of whether the determination was arrived at administratively or through a court of law.

2. Individuals will be disqualified for two years for a first finding by a court that the individual used or received SNAP benefits in a transaction involving the sale of a controlled substance, and permanently for a second such finding. Permanent disqualification will also result for the first finding by a court that an individual used or received SNAP benefits in a transaction involving the sale of firearms, ammunition or explosives with SNAP benefits.

3. An individual convicted of trafficking SNAP benefits of $500 or more shall be permanently disqualified.

4. An individual shall be ineligible to participate for 10 years if found to have made a fraudulent statement or representation with respect to identity or residence in order to receive multiple benefits simultaneously.

C. A loss of benefits penalty shall be imposed on those SNAP recipients who fail to report earned income in a timely manner. When determining the amount of benefits the household should have received, the department shall not apply the 20 percent earned income deduction to the income of the household which did not timely report. By doing this, the household that benefited from the failure to timely report is penalized since the amount it has to repay in overissuance will be increased. This provision shall be applied to allotments issued for October 1996 and all allotments issued for subsequent months.

AUTHORITY NOTE: Promulgated in accordance with 7 CFR 272, 273, 276 and 277, P.L.103-66, P.L. 104-193, P.L. 104-134, 7 CFR 3 Subpart B, and FR 65:41752 et seq., P.L. 110-246.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Family Security, LR 14:150 (March 1988), amended by the Department of Social Services, Office of Family Support, LR 23:84 (January 1997), LR 27:1017 (July 2001), amended by the Department of Children and Family Services, Economic Stability and Self-Sufficiency Section, LR 36:2533 (November 2010).

§2009. Collection Methods

A. The agency is required to collect any over-issuance as well as claims for trafficking. Collection of over-issued benefits may be accomplished using various methods including, but not limited to, the following methods:

1. reducing future allotments unless a repayment schedule has been established. The amount by which the agency can reduce the household's monthly allotment in the collection of over-issuances which are the result of intentional program violation is limited to 20 percent of the household's entitlement or $20 per month, whichever is greater, and 10 percent of the allotment or $10, whichever is greater, for all other over-issuances;

2. return of benefits;

3. cash repayment;

4. referral of delinquent food stamp claims to the Department of the Treasury for collection through the Treasury Offset Program. The Treasury Offset Program is the withholding of federal income tax returns, federal salaries or other funds payable by the federal government which may include, but not be limited to, federal retirement payments, military retirement, contractor/vendor payments, railroad retirement and Social Security payments. The Financial Management Service of the Treasury Department will charge an administrative fee for all collection services, and this fee will be added to the claim and deducted with any federal offset; or

5. withholding of unemployment compensation benefits.

B. The agency will not compromise claims, that is, forgive all or a portion of a debt. Claims may be terminated or written-off in accordance with federal policy.

AUTHORITY NOTE: Promulgated in accordance with 7 CFR 272, 273, 276 and 277, P.L. 103-66, P.L. 104-193, P.L. 104-134, 7 CFR 3 Subpart B, and FR 65:41752 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Family Security, LR 12:768 (November 1986), amended by the Department of Social Services, Office of Family Support, LR 27:1018 (July 2001), LR 27:1934 (November 2001).

Subchapter Q. Reserved (for Restoration of Lost Benefits)

Subchapter R. Simplified Reporting

§2013. Simplified Reporting

A. Effective November 2009, all SNAP households are included in simplified reporting with the exception of households participating in the Louisiana Combined Application Project (LaCAP).

B. Households subject to simplified reporting will be required to report only:

1. changes in gross monthly income which exceed 130 percent of the monthly poverty income guideline for the household size;

2. changes in work or training hours of able-bodied adults without dependents (ABAWDs) who are subject to the time limit set forth in §1940 if the change results in the ABAWD working or participating in training an average of less than 20 hours per week; and

3. all SNAP households, including LaCAP and categorically eligible households, are required to report when a member of the household receives substantial lottery or gambling winnings equal to or exceeding the resource limit for elderly or disabled households won in a single game before taxes or other amounts are withheld. The winnings must be reported by the 10th of the month following the month the lottery or gambling winnings were won.

C. Households included in simplified reporting will be assigned a certification period of 12 months.

D. All households in simplified reporting are required to:

1. timely provide a completed simplified report and all necessary verification; and

2. report current household circumstances.

E. Failure to provide a complete simplified report and verification will result in case closure.

F. Benefits will be determined prospectively based on verified circumstances.

G. Any change in benefits as a result of simplified reporting will be effective the month following the month in which the simplified report was required.

H. Effective August 7, 2001, other changes will be processed in accordance with §1999, Reduction or Termination of Benefits.

AUTHORITY NOTE: Promulgated in accordance with 7 CFR 273.12(a), P.L. 107-171.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 27:867 (June 2001), amended LR 28:103 (January 2002), LR 29:607 (April 2003), LR 35:689 (April 2009), amended by the Department of Children and Family Services, Economic Stability and Self-Sufficiency Section, LR 36:2534 (November 2010), LR 46:1222 (September 2020).

Chapter 21. Louisiana Combined Application Project (LaCAP)

§2101. General Authority

A. The Louisiana Combined Application Project (LaCAP) is established in accordance with applicable state and federal laws.

AUTHORITY NOTE: Promulgated in accordance with 7 CFR 271.3(c), 7CFR Part 282, and Section 17 of the Food Stamp Act of 1977.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 32:2271 (December 2006).

Subchapter A. Household Concept

§2103. Household Definition

A. The definition of a household is an individual who is receiving supplemental security income (SSI) and:

1. is at least 60 years old;

2. has a federal living arrangement of code "A" as determined by the Social Security Administration (SSA);

3. is not institutionalized, or otherwise ineligible for SNAP due to immigration status or an intentional program violation; and

4. lives alone or declares to purchase and prepare food separately from others in a shared living situation.

B. SSI individuals whose payments are in a "suspense" or "terminated" status as coded by SSA may not participate in LaCAP.

AUTHORITY NOTE: Promulgated in accordance with 7 CFR 271.3(c), 7 CFR Part 282, and Section 17 of the Food Stamp Act of 1977, and P.L. 110-246.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 32:2271 (December 2006), amended by the Department of Children and Family Services, Economic Stability and Self-Sufficiency Section, LR 36:2534 (November 2010), amended by Department of Children and Family Services, Economic Stability Section, LR 44:445 (March 2018).

§2105. Application Process

A. The department shall make an eligibility determination and issue SNAP benefits within 30 days following the date of application for LaCAP.

B. LaCAP applications will be processed without a face-to-face or telephone interview.

AUTHORITY NOTE: Promulgated in accordance with 7 CFR 273.2(g), 7 CFR 271.3(c), 7 CFR Part 282, and Section 17 of the Food Stamp Act of 1977, P.L. 110-246.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 32:2271 (December 2006), amended by the Department of Children and Family Services, Economic Stability and Self-Sufficiency Section, LR 36:2534 (November 2010).

§2107. Benefits

A. Participants will receive one of three standard amounts of SNAP benefits based on the household's total combined shelter (housing and utilities) costs.

B. Benefit levels and shelter thresholds used to determine benefits will be adjusted each year to reflect changes in the thrifty food plan and prevailing shelter expenses. Benefit levels will also be adjusted annually based on the cost-of-living adjustments for SSI.

C. Eligibility begins the first day of the month the LaCAP application is received. Benefits will not be prorated.

AUTHORITY NOTE: Promulgated in accordance with 7 CFR 271.3(c), 7CFR Part 282, and Section 17 of the Food Stamp Act of 1977, and P.L. 110-246.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 32:2271 (December 2006), amended by the Department of Children and Family Services, Economic Stability and Self-Sufficiency Section, LR 36:2534 (November 2010), amended by Department of Children and Family Services, Economic Stability Section, LR 44:445 (March 2018).

§2109. Certification Period

A. A certification period of 36 months will be assigned to each eligible LaCAP case.

AUTHORITY NOTE: Promulgated in accordance with 7 CFR 271.3(c), 7CFR Part 282, and Section 17 of the Food Stamp Act of 1977.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 32:2271 (December 2006).

§2111. Change Reporting

A. Households participating in LaCAP must be allowed, to report changes in circumstances affecting their eligibility or benefit level.

B. Households participating in LaCAP are required to report when the household receives substantial lottery or gambling winnings equal to or exceeding the resource limit for elderly or disabled households won in a single game before taxes or other amounts are withheld. The winnings must be reported by the 10th of the month following the month the lottery or gambling winnings were won.

C. The agency must act on changes when it becomes aware of the change from the household or another source if the change affects the household's eligibility or benefit level.

AUTHORITY NOTE: Promulgated in accordance with 7 CFR 7 CFR 271.3(c), 7CFR Part 282, and Section 17 of the Food Stamp Act of 1977.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 32:2272 (December 2006), LR 46:1222 (September 2020).

§2113. Household Options

A. Households may choose to opt out of LaCAP at any time and participate in regular SNAP, if otherwise eligible.

AUTHORITY NOTE: Promulgated in accordance with 7 CFR 271.3(c), 7 CFR Part 282, and Section 17 of the Food Stamp Act of 1977, P.L. 110-246.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 32:2272 (December 2006), amended by the Department of Children and Family Services, Economic Stability and Self-Sufficiency Section, LR 36:2534 (November 2010).

§2115. Notices of Adverse Action

A. LaCAP households shall be notified of action to reduce or terminate benefits in accordance with procedures outlined in Chapter 19, Subchapter M, Notice of Adverse Action.

AUTHORITY NOTE: Promulgated in accordance with 7 CFR 273.13.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 32:2272 (December 2006).

§2117. Recovery of Overissued Benefits

A. Establishment of claims, penalties, and collection methods for LaCAP households shall be handled in accordance with procedures outlined in Chapter 19, Subchapter P, Recovery of Over-Issued Supplemental Nutrition Assistance Program Benefits.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:953.B., 7 CFR 273.18, P.L. 110-246.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 32:2272 (December 2006), amended by the Department of Children and Family Services, Economic Stability and Self-Sufficiency Section, LR 36:2534 (November 2010).

Title 67
SOCIAL SERVICES
Part III. Family Support
Subpart 4. Child Support Enforcement

Chapter 23. Single State Agency Organization

Subchapter A. Designation, Authority, Organization and Staffing

§2301. Authority

A. Support Enforcement Services (SES) is established in accordance with U.S.C.A., Title 42, Section 651 et seq. and R.S. 46:236.1.2 et seq.

AUTHORITY NOTE: Promulgated in accordance with U.S.C.A., Title 42, Section 651 et seq. and R.S. 46:236.1 et seq.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 17:1226 (December 1991), amended LR 36:74 (January 2010).

§2303. State Plan

A. The Louisiana Health and Human Resources Administration, Division of Youth Services, first adopted the State Plan for Child Support Collection and Establishment of Paternity effective August 1, 1975. Support enforcement services is now the single-state agency operating under the federally-approved State Plan for Child Support Enforcement Services.

B. The State Plan is available for review at the:

Office of Family Support Planning Section
627 North Fourth Street, Room 5-233-19
Baton Rouge, LA 70804.

AUTHORITY NOTE: Promulgated in accordance with Title IV-D of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Louisiana Health and Human Resources Administration, Division of Youth Services, LR 11:495 (November 1975), amended by the Department of Social Services, Office of Family Support, LR 26:2830 (December 2000), LR 33:508 (March 2007), LR 35:270 (February 2009).

§2304. Expedited Administrative Process

A. SES will have administrative authority to order the following activities:

1. order genetic testing;

2. subpoena financial or other information needed to establish, modify, or enforce orders, and impose penalties for failure to respond to such subpoenas;

3. direct the noncustodial parent to make his payments to the state;

4. order income withholding;

5. initiate liens;

6. freeze and seize assets;

7. increase the monthly support amounts for the liquidation of arrears;

8. transfer cases between jurisdictions;

9. establish paternity;

10. establish support orders; and

11. modify support orders.

AUTHORITY NOTE: Promulgated in accordance with P.L. 104-193.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 23:747 (June 1997), amended LR 26:2830 (December 2000).

§2305. Child Support Enforcement Staff

A. Child support enforcement field officers responsible for supplying services shall be:

1. caseworkers, as defined in 45 CFR §303.20(e)(1);

2. child support enforcement personnel who supervise caseworkers;

3. child support enforcement personnel who supervise child support enforcement district offices; and

4. Department of Children and Family Services personnel who directly supervise at least one child support enforcement district office.

B. Child support enforcement field officers listed in Subsection A shall possess full notarial powers in connection with any document required in the course of providing services to enforce support obligations owed by non custodial parents to their family and children, to locate parents, or to establish paternity and obtain family, child, and medical support orders.

C. It is expressly forbidden for the agent to charge any fee for any oath which he takes or for any authentic act which he passes by virtue of this Section.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:236.1.8(D) and (E).

HISTORICAL NOTE: Promulgated by the Health and Human Resources Administration, Division of Youth Services, LR 2:274 (September 1976), amended by the Department of Social Services, Office of Family Support, LR 34:1929 (September 2008), amended by the Department of Children and Family Services, Child Support Enforcement Section, LR 39:2437 (September 2013).

Chapter 25. Support Enforcement

Subchapter A. Agency Cooperation

Editor's Note: See §1239, Assignment of Support Rights and Cooperation with SES, and §1285, IV-D Recovery of Support Payments.

§2507. IV-A Agency Treatment of Support Payments

A. The IV-A Agency shall treat support payments received by FITAP applicants and recipients in the month of certification, prior to authorization of the first payment, as income in determining both eligibility and the amount of assistance to be provided by the agency. Such support payments shall not be treated as income in the month of certification only when remitted to the IV-D agency by the recipient. Under this rule an overpayment of assistance shall occur in the month of certification when a support payment is received and retained by an applicant or recipient and not counted by the IV-A agency in determining either eligibility or the amount of assistance to be provided through FITAP payment.

AUTHORITY NOTE: Promulgated in accordance with 45 CFR 233.20(a)(3)(v).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Family Security, LR 9:62 (February 1983), amended LR 10:89 (February 1984).

Subchapter B. Support Obligation

§2509. Income Assignment

A. In all new or modified child support orders enforced by Child Support Enforcement Section (CSE) and all new child support orders after January 1, 1994, that are not being enforced by CSE, the court shall order an immediate income assignment unless a written agreement exists between the parties for an alternate arrangement, or the court finds good cause not to require an immediate income assignment. The notice given to employer shall be issued on the federally-approved income withholding order (IWO) form as required by federal law. Employers shall remit any amounts withheld through income assignment within seven days.

B. In any case in which CSE is providing services, if not previously subject to income assignment, the order shall become subject to withholding, if arrearages occur, without the need for a judicial or administrative hearing. Orders enforced by CSE will be subject to withholding without advance notice to the obligor. The payor of income is notified to withhold an amount for current support plus an additional amount, determined by CSE toward any arrears owed. The amount subject to be withheld cannot exceed the percentage of disposable income as defined in R.S. 13:3881 or the federal wage garnishment.

C. The forms of income available for assignment include any singular or periodic payment to an individual regardless of source, including but not limited to, wages, salary, interest, commission, independent contractor compensation, disability income, unemployment compensation, worker's compensation, bonuses, judgments, settlements, annuity and retirement benefits, and any other payments made by any person, private entity, federal, or state government, any unit of local government, school district, or any entity created by public act.

D. The payor of income may deduct a $5 processing fee from the noncustodial parent's income each pay period during which the income assignment order is in effect. If the payor of income discharges, disciplines, or otherwise penalizes a person ordered to pay support because of the duty to withhold income, the payor of income may be liable for the accumulated amount or be subjected to other sanctions.

E. All income assignment orders shall be payable through the Louisiana state disbursement unit. Payments shall be made payable to the Department of Children and Family Services and mailed to:

Centralized Collection Unit
Post Office Box 260222
Baton Rouge, LA 70826-0222

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:236.3 and 45 CFR 303.100, P.L. 104-193.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Family Security, LR 11:1083 (November 1985), amended by the Department of Social Services, Office of Eligibility Determinations, LR 16:33 (January 1990), amended by the Department of Social Services, Office of Family Support, LR 23:748 (June 1997), LR 26:356 (February 2000), LR 36:74 (January 2010), amended by the Department of Children and Family Services, Child Support Enforcement Section, LR 39:1765 (July 2013).

Subchapter C. Formula for Support Obligation

§2511. Child Support Award Guidelines

A. The child support award guidelines established in R.S. 9:315 et seq. shall be used in any proceeding to establish or modify child support orders. There shall be a rebuttable presumption that the amount of the child support established by use of the guidelines is the proper amount of child support.

AUTHORITY NOTE: Promulgated in accordance with R.S. 9:315 et seq., 45 CFR 302.56.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Family Security, LR 13:497 (September 1987), amended by the Department of Social Services, Office of Eligibility Determinations LR 16:34 (January 1990), amended by the Department of Social Services, Office of Family Support, LR 24:957 (May 1998).

§2512. Adjustment of Child Support Orders

A. SES will send a notice every three years advising both parties to the support order of the right to request a review. If either party requests a review or if there is an assignment under Temporary Assistance to Needy Families (TANF), SES will conduct the review and, if appropriate, judicially seek adjustment of the order in accordance with the guidelines if the amount of the child support in the order differs from the amount of the child support award in accordance with the guidelines.

AUTHORITY NOTE: Promulgated in accordance with P.L. 104-193, §351, R.S. 9:311C, and the Social Security Act [466(a)(10)].

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Family Security, LR 19:1178 (September 1993), amended LR 23:748 (June 1997), LR 24:957 (May 1998), LR 33:1880 (September 2007).

Subchapter D. Collection and Distribution of Support Payments

§2513. Collection of Spousal Support

A. Effective January 1, 1986, the Department of Health and Human Resources, Office of Family Security, shall implement the collection of spousal support.

B. In order to qualify for spousal support, the following must be met by the payee:

1. a prior child support order has been established;

2. the child and spouse are living in the same household;

3. the child support obligation established is being enforced under the state's IV-D Plan.

AUTHORITY NOTE: Promulgated in accordance with 45 CFR 302.17 and 45 CFR 302.31.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Family Security, LR 11:1151 (December 1985).

§2514. Distribution of Child Support Collections

A. Effective October 2, 1998 the agency will distribute child support collections in the following manner.

1. In cases in which the applicant/recipient (AR) currently receives Family Independence Temporary Assistance Program (FITAP) benefits, collections received in a month will be retained by the state to reimburse previous and current assistance amounts. If the collection amount exceeds the amount of unreimbursed grant, the excess will be refunded to the AR up to the current arrearage amount.

2. In cases in which the AR previously received AFDC or FITAP, and there are amounts owed to the state, collections received through any means other than IRS intercepts will be distributed as follows:

a. the AR shall receive an amount equal to the court-ordered monthly obligation and any arrears owed to the AR that accrued in a non-assistance period;

b. amounts owed to the state;

c. any arrears that accrued during assistance that exceed the unreimbursed grant will be paid to the AR.

3. In cases in which the AR never received assistance, or the AR previously received AFDC or FITAP and no amount is owed to the state, all collections will be refunded to the AR.

4. In IV-E Foster Care cases, all amounts collected are sent to the IV-E Agency for appropriate distribution.

5. In cases in which the AR previously received AFDC or FITAP, and there are amounts owed to the state, collections received through IRS intercepts will be distributed as follows:

a. amounts owed to the state; and

b. amounts owed to the AR.

6. Effective April 25, 2005, the state may delay distribution of federal offsets for child support arrears until the state has been notified by the U.S. Secretary of the Treasury that the other person filing the joint return has received his or her proper share of the offset. The delay may not exceed six months.

B. Any collections received through income assignments are subject to refund to the noncustodial parent based on federal and state laws and regulations.

C. For any refund payment issued to a noncustodial parent, DCFS, CSE will make at least one attempt to issue the money to the NCP. If the attempt is unsuccessful, CSE will take action to ensure the amount of the payment will be distributed to any other child support debt or recovery debt owed by the noncustodial parent in accordance with distribution rules in Subsection A of this Section or forward the payment to the Unclaimed Property Division of the Louisiana Department of the Treasury.

D. A check distributed by DCFS, CSE will be considered stale dated when the check has not been cashed or negotiated after 180 days of issuance. An electronic funds transfer transaction that is rejected within 3-5 days by the receiving financial institution will be considered eligible to be applied to other LASES/member debts owed, once diligent efforts to distribute the payment to the noncustodial parent fails and the payment has been held in suspense for more than 180 days from issuance. Stale dated checks issued to the noncustodial parent will be placed in suspense and distributed to other LASES/member debts owed by the NCP in accordance with the distribution rules in this Section or held in suspense for one year from the date the payment was received by DCFS, CSE. The refund payments issued to the NCP which were not applied to other LASES/member debts will be forwarded to the Unclaimed Property Division of the Louisiana Department of the Treasury after 457 days has expired.

E. Effective April 25, 2005, when child support is collected in the form of a foreign currency, the state shall send the child support payment to the custodial parent within two business days of receipt of the converted U.S. dollar payment.

F. CSE may exercise authority granted by the law to distribute child support payments to other cases as deemed necessary to fulfill other IV-D functions as outlined in R.S. 46:236.1.2.

AUTHORITY NOTE: Promulgated in accordance with P.L. 104-193, P.L. 105-33, OCSE-AT-98-24, 42 USC 664(a)(3)(B), and 42 USC 654b(c).

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 23:304 (March

1997, amended LR 24:703 (April 1998), LR 25:320 (February 1999), LR 31:2266 (September 2005), amended by the Department of Children and Family Services, Division of Family Support, Child Support Enforcement Section, LR 44:24 (January 2018), effective February 1, 2018.

§2515. IRS Collection Fee for Non-FITAP Applicants

A. Effective 3/1/86 the Department of Health and Human Resources, Office of Family Security will began charging an application fee of $122.50 to non-FITAP payees who apply for full-service Internal Revenue Services (IRS) Collection. IRS charges the Support Enforcement Program $122.50 for each full-service case referred to them whether or not collection is successful. Full service IRS eligibility and the agency agreement to reimburse the secretary of the treasury for collection costs are outlined in 45 CFR 303.71.

B. Cases are eligible for IRS certification if:

1. there is a court or administrative order for support;

2. the amount to be collected under the support order is at least $750 in arrears;

3. at least six months have elapsed since the last IRS full service referral;

4. the IV-D agency, the client, or the client's representative shall have made reasonable efforts to collect the support through the state's own collection mechanisms; and

5. there is an application for services specified under 45 CFR 302.33.

C. In establishing that reasonable collection efforts have been made, the agency is required to file a statement of collection actions taken, why they failed, and why further state action would be unproductive.

AUTHORITY NOTE: Promulgated in accordance with 45 CFR 303.71 and 45 CFR 302.33.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Family Security, LR 12:115 (February 1986).

§2516. Recovery of Erroneous Child Support Payments

A. Upon notification that an erroneous payment has been made, SES will automatically withhold up to 10 percent from each future child support payment to recover this loss when the individual has given consent to the automatic recovery during the application process. If the individual disagrees with an automatic recovery during the application process, upon notification from SES the individual will be allowed 30 days to arrange for repayment prior to SES initiating action to recover the loss by withholding up to 10 percent of each future support payment.

AUTHORITY NOTE: Promulgated in accordance with 45 CFR 302.32, 302.51, and RS 46:233(1)(C).

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 23:1327 (October 1997), amended LR 29:1107 (July 2003).

§2517. Application Fee for Former FITAP Recipients

A. Effective October 1, 1988, an application fee will be charged to any former FITAP recipient who reapplies for support enforcement services more than 30 days after services are discontinued because of failure to cooperate. An application fee will also be charged to any former FITAP recipient who reapplies for support enforcement services after services are discontinued at the recipient's request. Any child support collected for a former FITAP recipient will be distributed using the same methodology that is used for collections for non-FITAP recipients.

AUTHORITY NOTE: Promulgated in accordance with P.L. 98-378, P.L. 100-203, 45 CFR 302.51 and 45 CFR 302.33.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Eligibility Determinations, LR 15:96 (February 1989).

§2518. Electronic Distribution of Child Support Payments

A.1. Effective April 1, 2006, electronic disbursement of child support payments shall be mandatory except in the following situations:

a. payments are forwarded to private collection agencies;

b. physical or other disabilities impose a hardship to receive payments via electronic disbursement;

c. the custodial parent is receiving FITAP benefits;

d. payments are forwarded to the non-custodial parent;

e. payments received are in excess of FITAP benefits; and

f. any other exceptions as shall be determined by Support Enforcement Services to be necessary for effective program operations.

2. Electronic disbursement of child support includes direct deposits to the custodial parent’s bank account (checking or savings) or payments to a stored value card account.

B. A stored value card is a card-accessed account system where payments are electronically deposited into an account accessible for cash withdrawal or for credit purchases.

C. The fees associated with the use of the stored value card are subject to the conditions of that financial institution.

AUTHORITY NOTE: Promulgated in accordance with Section 454A(g) of the Social Security Act and PIQ-04-02.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 32:442 (March 2006), amended LR 32:1465 (August 2006).

Subchapter E. Individuals Not Otherwise Eligible

§2520. Locate Fee for Non-FITAP Recipients (Formerly §2525)

A. The IV-D Program shall charge a fee of $10 per request for non-FITAP, locate-only requests. An additional $4 charge shall be made if the Social Security number of the noncustodial parent is not provided.

AUTHORITY NOTE: Promulgated in accordance with 45 CFR 303.70.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Family Security, LR 9:131 (March 1983), amended by the Department of Social Services, Office of Family Support, LR 24:957 (May 1998).

§2521. Child Support Application Fee

A. SES will charge an application fee of $25 to each individual who applies for services and does not receive FITAP, MEDICAID, or IV-E Foster Care. A fee is not required if an applicant reapplies for child support through SES within six months after a case is closed, unless the case was closed at the applicant's request or for failure to cooperate.

AUTHORITY NOTE: Promulgated in accordance with 45 CFR 302.33 and 45 CFR 302,51.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Family Security, LR 12:115 (February 1986), amended by the Department of Social Services, Office of Family Support, LR 24:957 (May 1998), LR 26:1343 (June 2000).

§2523. Mandatory Fee for Successful Child Support Collection

A.1. Effective October 1, 2006, in the case of an individual who has never received assistance under a state program funded under Part A of the Social Security Act and for whom the state has collected at least $500 of support, the state shall impose an annual fee of $25 for each case in which services are furnished.

2. Effective October 1, 2006, the custodial party shall be responsible for the annual fee and the fee shall be retained by the state from support collected, (but not from the first $500 collected) or paid by the state out of its own funds (the payment of which from state funds shall not be considered as an administrative cost of the state for the operation of the plan, and the fees shall be considered income to the program).

B.1. Effective October 1, 2018, in the case of an individual who has never received assistance under a state program funded under Part A of the Social Security Act and for whom the state has collected at least $550 of support, the state shall impose an annual fee of $35 for each case in which IV-D services are furnished.

2. Effective October 1, 2018, the custodial party shall be responsible for the annual fee and the fee shall be retained by the state from support collected, (but not from the first $550 collected) or paid by the state out of its own funds (the payment from state funds shall not be considered administrative cost). The fees collected shall be considered income to the program.

C. The mandatory fee will accrue based on the federal fiscal year.

D. Fees imposed and not collected in one year will be collected in the following federal fiscal year or subsequent federal fiscal years.

AUTHORITY NOTE: Promulgated in accordance with section 454(6)(B)(ii) of the Social Security Act, AT-06-01, and DCL-06-28.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 33:508 (March 2007), amended by the Department of Children and Family Services, Division of Family Support, Child Support Enforcement Section, LR 44:1590 (September 2018), effective October 1, 2018.

Subchapter F. Cooperation with Other States

§2524. Uniform Interstate Family Support Act

A. Support Enforcement Services will establish, modify and enforce interstate child support obligations under the provisions of the Uniform Interstate Family Support Act (UIFSA).

AUTHORITY NOTE: Promulgated in accordance with 45 CFR 302-303.7, and LAS-Ch. C. Art. 1301-1308.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 22:224 (March 1996).

§2525. Automated Administrative Enforcement in Interstate Cases

A. SES shall use high-volume, automated administrative enforcement on interstate cases to the same extent as used for intrastate cases. This means the use of automatic data processing to search various state data bases, including license records, employment service data, and state new hire registries, to determine whether information is available regarding a parent who owes a child support obligation.

B. SES may transmit a request for assistance to another state by electronic or other means in a case involving the enforcement of a support order. The request shall contain sufficient information to enable the receiving state to compare such information with information in its data base. The request shall constitute a certification of the amount of court-ordered support which is in arrears, and that the state has complied with all procedural due process requirements applicable to the case.

C. SES shall promptly respond to a request made by another state for automated enforcement of a support order. SES shall maintain records of the number of such requests for assistance received, the number of cases for which support was collected in response to such a request, and the amount of support collected.

AUTHORITY NOTE: Promulgated in accordance with P.L. 105-33.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 24:958 (May 1998), amended LR 24:1954 (October 1998).

Subchapter G. Reserved (previously Parent Locator Service)

Subchapter H. Medical Support Activities

§2527. Securing and Enforcing Medical Support Obligation

A. Child Support Enforcement (CSE) shall secure medical support information and enforce medical support through the use of the national medical support notice.

B. Unless the custodial parent and child(ren) have satisfactory health insurance other than Medicaid, IV-D shall petition the court to include health insurance that is available to either or both parent(s) at reasonable cost in new or modified orders for support. Reasonable cost, as it pertains to private health insurance, means that the health insurance premiums for the minor child or children do not exceed 5 percent of the gross income of the parent ordered to provide support pursuant to R.S. 9:315.4. A medical support order shall be obtained whether or not health insurance is actually available to either or both parent(s) at the time the order is entered, or modification of current coverage to include the child(ren) in question is immediately possible.

C. The IV-D agency will take steps to enforce the medical support order if health insurance is available to either or both parent(s) at reasonable cost but has not been secured at the time the order is issued.

D. CSE may enforce court-ordered medical support by means of income assignment in cases where the court has ordered cash medical support.

E. CSE shall require the employer of a parent who is court-ordered to provide medical support to enroll and maintain available health insurance on a child.

AUTHORITY NOTE: Promulgated in accordance with 45 CFR 303.31 and 303.32, R.S. 46:236.1.1, 46:236.1.2, 46:236.3, Ch.C. Art.1305.1 et seq., 46:236.8.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Family Security, LR 12:245 (April 1986) amended by the Department of Social Services, Office of Family Support, LR 22:118 (February 1996), LR 31:1102 (May 2005), amended by Department of Children and Family Services, Division of Programs, LR 37:810 (March 2011).

Subchapter I. Tax Refund Offset

§2529. State Tax Refunds

A. SES will request withholding of any state income tax refunds due to individuals who have child support arrearages in excess of $50. Support payments received through state tax intercept will be distributed in accordance with federal regulations.

B. SES will charge a $4 fee to non-FITAP custodial parents for each successful state tax refund offset of $5 or more. This fee will reimburse SES for intercept fees paid to the Department of Revenue and Taxation. The fee charged for the state tax offset will be deducted from the child support checks issued by SES. The noncustodial parent will be given credit for the amount of the check before the fee deduction.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:299.1 et seq., 45 CFR 303.102, P.L. 104-193 and P.L. 105-33.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Family Security, LR 10:916 (November 1984), amended by the Department of Social Services, Office of Family Support, LR 17:388 (April 1991), LR 27:81 (January 2001), LR 28:350 (February 2002).

§2531. Advance Notice of State Tax Refund Interception

A. SES will send an advance notice to each noncustodial parent owing past-due child support whose name is submitted for interception of state tax refund. This notice will advise the noncustodial parent of the right to administrative review if the state tax information is contested.

AUTHORITY NOTE: Promulgated in accordance with 45 CFR 303.102, P.L.104-193 and P.L. 105-33.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Family Security, LR 11:1152 (December 1985), amended by the Department of Social Services, Office of Family Support, LR 27:81 (January 2001).

§2532. Federal Administrative Offsets

A. SES will collect past-due support by referral of appropriate cases to the United States Financial Management Service, Department of the Treasury, effective November 1, 1997. The Financial Management Service is authorized to intercept any funds payable by the federal government, not otherwise exempt from seizure, which are due a noncustodial parent who owes past-due support. Payments may include, but are not limited to, wages, salary, retirement benefits, vendor and expense reimbursement. The debt remains subject to collection until it is paid in full. The noncustodial parent will receive a 30-day advance notice prior to the referral. SES will deduct any processing fee charged by the Financial Management Service from the payment submitted to the custodial parent.

AUTHORITY NOTE: Promulgated in accordance with P.L. 104-134 and 3 CFR 13019.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 23:1326 (October 1997).

§2533. Federal Tax Refunds

A. SES shall collect past-due support by federal tax refund offset according to federal criteria.

B. SES shall deduct the processing fee imposed by the Internal Revenue Service from each non-FITAP payee's refund check.

AUTHORITY NOTE: Promulgated in accordance with 45 CFR 303.72.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Family Security, LR 11:1083 (November 1985), amended by the Department of Social Services, Office of Family Support, LR 24:958 (May 1998).

Subchapter J. State Lottery Offset

§2535. Assignment of Lottery Winnings by Support Enforcement Services

A. Effective May 1992, the Department of Social Services, Office of Family Support, shall implement interception of lottery winnings from the Louisiana Lottery Corporation of a delinquent support payor.

B. Support Enforcement Services will send to the Louisiana Lottery Corporation a monthly list of child support payors who are delinquent in their child support payments. If a delinquent support payor wins a lottery prize of $600 or more, the Lottery Corporation will deduct the amount of child support arrears reported by SES from the lottery winnings and then submit the deducted amount to SES.

C. Support Enforcement Services will apply the intercepted winnings amount first to any unpaid monthly obligation and then to any outstanding arrears as of the date the intercepted winnings are posted to the delinquent support payor's child support cases(s).

D. A delinquent support payor with more than one case with outstanding arrears shall have his lottery winnings prorated to each case based on the unpaid monthly obligation plus arrearage due in each case as a percentage of the total unpaid monthly obligations plus arrearage due in all cases.

E. Any intercepted amounts which exceed the amount of unpaid monthly obligation plus arrearage in all cases on the date the intercepted winnings are posted will be refunded to the support payor in a prompt manner.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:9026.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 18:507 (May 1992).

Subchapter K. Withholding of Unemployment Compensation

§2537. Collecting Unemployment Compensation Payments

A. The Department of Health and Human Resources, Office of Family Security, implemented withholding of unemployment benefits as a method of collecting unmet support obligations owed in both FITAP and non-FITAP cases, effective October 1, 1982.

AUTHORITY NOTE: Promulgated in accordance with Section 2335 of P.L. 97-35, R.S. 23:1693, R.S. 23:1600(8), R.S. 46:236.1(n), Omnibus Budget Reconciliation Act of 1981 and 45 CFR 302.65.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Family Security, LR 8:481 (September 1982).

Subchapter L. Enforcement of Support Obligations

§2539. Enforcement of Child Support Orders

A. The Department of Health and Human Resources, Office of Family Security, implemented enforcement of support orders, effective October 1, 1982.

B. This action provides for continued enforcement of child support orders in arrears, posting of bond and continued wage withholding at the courts' discretion.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:236.3.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Family Security, LR 8:481 (September 1982).

§2540. Judicial Suspension of License(s) for Nonpayment of Child Support

A. The agency may, under certain circumstances, petition the courts for an order to suspend the license(s) of an individual who is not in compliance with an order for support. The criteria for referral are as follows:

1. cases which have a support order which is being enforced in Louisiana;

2. income assignment is not practical; and

3. the non-custodial parent is at least 90 days in arrears or not complying with a court order to make periodic payments.

B. The court on its own motion or upon motion of an obligee or the department shall issue an order of suspension of a license or licenses of any obligor upon proof of nonpayment evidenced by:

1. failure to pay child support on a regular basis; or

2. remittance of payments of support only after continuous requests or legal action by or on behalf of the obligee; or

3. remittance of the minimal amount of child support owed.

C. The obligor will be given a 30-day advance written notice affording an opportunity to liquidate the arrears or make satisfactory arrangements with the agency prior to the case being referred.

D. In cases in which a non-custodial parent fails to respond to a subpoena or a warrant involving support or paternity matters SES may petition the court to suspend all licenses of the parent.

AUTHORITY NOTE: Promulgated in accordance with R.S. 9:315.30 through 315.35, P.L. 104-193, R.S. 9:315.36.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 22:118 (February 1996), amended LR 23:748 (June 1997), LR 31:1103 (May 2005).

§2541. Information Released to Consumer Reporting Agencies

A. The Support Enforcement Program will report periodically to credit bureaus/consumer reporting agencies, the name of any noncustodial parent (absent parent) who is delinquent in the payment of support, and the amount of overdue support owed by such parent. The agency shall provide due process to the noncustodial parent providing such parent with advance notice and a reasonable opportunity to contest the accuracy of such information.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:56(D), (F)(4), (F)(5), (M) and 45 CFR 303.105, P.L. 104-193.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Family Security, LR 11:1151 (December 1985), amended by the Department of Social Services, Office of Family Support, LR 22:117 (February 1996), LR 23:210 (February 1997).

§2542. Voiding of Fraudulent Transfers

A. In cases in which a noncustodial parent transfers income or property to avoid payment of support, SES shall seek to void such transfer.

AUTHORITY NOTE: Promulgated in accordance with P.L. 104-193.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 23:748 (June 1997).

§2543. Cooperative Endeavor in the Collection of Unpaid Child Support

A. In cases in which SES is providing services and the client hires a private attorney, SES may enter into a cooperative agreement with the attorney. The purpose of the agreement is to provide the private attorney with information on the payor so that the attorney can assist the client in collecting child support. Information to be released is as follows:

1. Social Security number;
2. address;
3. driver's license number;
4. information from hunting licenses;
5. tax records; and
6. information from professional licenses.

B. SES may provide the private attorney a certification that the obligor is in arrears at least six months or that the whereabouts of the obligor have been unknown for longer than six months. Upon review by the court, the court may authorize DSS to enter into a cooperative agreement with the attorney for collecting unpaid child support.

C. Before SES enters into an agreement with the private attorney, the obligee must sign a statement that the attorney is providing services and that he/she wishes the agency to enter into a cooperative agreement. The client may also request that child support payments collected by SES be sent directly to the private attorney.

D. The agreement between SES and the attorney shall be in writing and shall provide for the following:

1. that information concerning the obligor shall be provided to the attorney to the extent allowed by state and federal laws and regulations;
2. that all child support payments collected on behalf of the client shall be sent directly to SES and not to the attorney; and
3. that information furnished to the attorney must be safeguarded and used exclusively for IV-D child support purposes.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:237.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 25:2456 (December 1999).

§2545. Administrative Suspension of Licenses Issued by the State of Louisiana

A. CSE may administratively suspend licenses of child support obligors who are not in compliance with an order for support. License suspension will be considered if income assignment is not effective, or if the obligor is not making payments or is making only periodic payments. An obligor shall meet one of the following criteria to be considered for license suspension:

1. delinquent at least 90 days in the payment of support or in making periodic payments on a support arrearage pursuant to a court order or written agreement with the department;
2. has failed to provide and/or maintain health insurance ordered by a court.

B. CSE will send a notice of the intent to suspend licenses to the obligor by certified mail with return receipt requested. If anyone in the obligor's household accepts the notice, it shall be considered as successfully served on the obligor. The notice will provide information concerning the following:

1. the municipal address and telephone number of the office that issued the notice;
2. the docket number and court which issued the order of support;
3. the amount of past-due support;
4. what the obligor must do to comply;
5. a summary of the obligor's right to file a written objection to the suspension of licenses and a description of the administrative hearing process; and
6. the right of an unobligated spouse to provide CSE with a notarized affidavit in order to retain use of a shared vehicle.

C. Within 20 days of receipt of the notice, the obligor may act in the following manner to forestall license suspension. CSE shall certify the obligor's non-compliance

to the appropriate licensing authorities if the obligor fails to act as detailed in this matter.

1. The obligor may enter into a written agreement to pay current and past-due support. If an obligor fails to comply with the terms of a written agreement, CSE may proceed with license suspension without further notice.

2. The obligor may file a written objection requesting an administrative hearing to determine whether the obligor is in compliance with an order of support. If the hearing authority rules that the obligor is in arrears with the support order and all legal delays have elapsed, CSE shall proceed with license suspension without further notice.

3. The obligor may provide acceptable evidence of the inability to pay.

D. Upon timely receipt of written objection, the administrative hearing authority will schedule and notify obligor of the time and place of the hearing. Such hearing may be conducted by telephone or other electronic media. A decision shall be rendered within 90 days of receipt of the written objection.

E. For a driver's or vehicular license, CSE shall be sensitive to the obligor's needs to retain the license for work purposes or to provide medical transportation to a dependent person. In some situations, CSE may suspend driving privileges for specific times of the day or for specific days of the week.

F. CSE shall issue a release certificate if an obligor becomes compliant with a support order and is eligible to have a license reissued. Such certificate will be sent to the agency or authority that suspended the obligor's license.

G. CSE may issue a certificate of partial compliance requesting that the suspension be lifted or modified if an obligor provides evidence of his ability to comply with the support order and enters into a written agreement with the department. The written agreement will serve as notice of license suspension if obligor fails to comply. Evidence of ability to comply is defined as:

1. a written statement signed by a person authorized to hire and pay wages which includes the address for the income withholding order form to be sent;

2. a copy of lease or rental agreement that indicates the obligors ability to provide a service that will result in self-employment income; or

3. any other evidence presented by an obligor that is approved by the State's IV-D Director or the IV-D Director's designee.

AUTHORITY NOTE: Promulgated in accordance with R.S. 9:315.40 et seq.; 42 U.S.C. 666.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, Support Enforcement Services, LR 27:2264 (December 2001), amended by the Department of Social Services, Office of Family Support, LR 31:1103 (May 2005), amended by the Department of Children and Family Services, Child Support Enforcement Section, LR 39:1764 (July 2013).

§2547. Passport Denial

A. SES shall administratively collect past due child support in accordance with the Passport Denial Program. Individuals owing past due child support amounts in excess of $2,500 will be certified by referral to the Secretary of the United States Department of Health and Human Services (DHHS) to the Secretary of the United States Department of State for passport denial unless the state agency certifying their past due support amount excludes them from this remedy.

B. SES will send an advance notice to each non-custodial parent owing past due child support whose name will be submitted for the Passport Denial Program. This notice will advise the non-custodial parent of the right to request an administrative review solely for the purpose of contesting the amount of the past due support with the state(s) that has certified them for the debt. This request shall be in accordance with 45 CFR 303.35.

AUTHORITY NOTE: Promulgated in accordance with 42 USC 652(k)(1), 42 USC 654(31), 45 CFR 303.35 and DCL-06-14.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 33:675 (April 2007), amended LR 35:270 (February 2009).

Subchapter M. Cooperation with Other State Agencies

§2575. Department of Revenue and Taxation

A. Support Enforcement Services may refer support cases to the Department of Revenue and Taxation which can use any means available under law to collect delinquent court-ordered child support payments. SES will provide to the obligor a 30-day advance notice prior to referral.

B. Criteria for referral include cases in which the obligor is not making regular child support payments at least equal to the monthly obligation; income assignment cannot be used; the obligor is delinquent $1,000 or more; and there is an indication that the obligor may have assets which could be seized to pay the delinquency.

C. The Department of Revenue will refer information to SES when an obligor indicates that collection would result in undue hardship to the health and welfare of his family. SES will review the case and render a decision on continuance within 45 days.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:236.9, P.L. 104-193.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 23:748 (June 1997).

§2576. Department of Motor Vehicles and Law Enforcement Agencies

A. SES may obtain information relating to motor vehicle and law enforcement files for purposes of locating a noncustodial parent and for purposes of enforcing orders.

AUTHORITY NOTE: Promulgated in accordance with P.L. 104-193.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 23:748 (June 1997).

Subchapter N. Publication of Names of Delinquent Payors

§2579. Publication of Names

A. SES will periodically provide a listing of noncustodial parents who are delinquent in child support payments for publication by the media. Publication may be at the expense of DSS or on a public service basis. The information will also be included on the DSS homepage on the Internet. The entire list, or segments thereof, may be provided to the media or placed on the DSS homepage.

B. Information to be released includes the name, date of birth, last known address, and the total amount of past-due support owed by the noncustodial parent. Persons to be listed are those who have made no payments within the last six months, excluding payments received through IRS, state tax, or lottery intercepts. Noncustodial parents who are incarcerated or who cannot pay because of a proven disability will not be listed. If a noncustodial parent is listed on the DSS homepage the name will be removed only upon written request of the noncustodial parent and proof that the arrears have been reduced to less than six months support.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:236.6(F).

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 25:2457 (December 1999), amended LR 26:2830 (December 2000).

§2580. Publication of the "Most Wanted" Poster

A. SES will periodically publish a "Most Wanted" poster featuring 10 or more noncustodial parents each of whom meets the following criteria:

1. owes a total of $5,000 or more in past due support;
2. has not been making regular payments; and
3. his/her whereabouts are unknown or unverified.

B. Each Regional Office and Orleans and Jefferson District Attorney Offices will submit a list of possible noncustodial parents to be listed on the "Most Wanted" poster. SES State Office will review the submittals and will select those cases which are determined to be most appropriate for the "Most Wanted" poster. The selection process will consider the total amount of support owed, the payment history of each person, and the person's history of evading location and service of process.

C. Information to be provided in the "Most Wanted" poster will include the following:

1. the name, age, date of birth, occupation, and last known address(es) of the noncustodial parent;
2. a photograph of the noncustodial parent;
3. the total amount of support owed as calculated by support enforcement; and
4. the number of children to whom support is owed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:236.6(F).

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 25:2457 (December 1999).

Chapter 27. General Program Administration

Subchapter A. Establishment of Paternity

§2701. Blood Tests

A. Effective August 1992, if paternity is established and paternity blood tests were performed, the Department of Social Services, Office of Family Support, Support Enforcement Services, must attempt to obtain a judgment of the costs of the blood tests from the party who denied paternity, as long as the amount requested does not exceed the actual costs of the blood tests.

AUTHORITY NOTE: Promulgated in accordance with F.R. 56:22335, 45 CFR 303.5.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 18:870 (August 1992).

§2703. Hospital-Based Paternity Acknowledgment Program

A. The agency will provide all birthing hospitals in the state written materials concerning paternity establishment, written descriptions of the rights and responsibilities of acknowledging paternity, and the forms necessary to voluntarily acknowledge such, as well as training necessary to operate the program. The agency will receive acknowledgments generated by the program and maintain a statewide database. Information from the database will be used in child support matters subject to the jurisdiction of SES.

AUTHORITY NOTE: Promulgated in accordance with 45 CFR 303.4(f), 303.5(g) and (h), R.S. 40:46.1.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 22:117 (February 1996).

§2705. Administrative Process for Establishing Paternity

A. Upon receipt of a Paternity Declaration Form, Support Enforcement Services will notify the alleged father by certified mail that he has been named as father of the child and that he has 90 days to contest the allegation. If the alleged father fails to contest the allegation in writing within this time frame, he shall be presumed to be the father of the child for support purposes only. The agency or the custodial parent may then proceed with establishing a support order.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:34 (E).

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 22:118 (February 1996).

Subchapter B. Reserved

Subchapter C. Establishment and Modification of Support Orders

§2754. Obtaining Consumer Reports for Purposes Related to Child Support

A. SES will obtain credit reports on noncustodial parents from consumer reporting agencies to be used in determining ability to pay child support and the appropriate level of such payments. Such information will be obtained only after the parent has been given 10-day notice, or the parent waives the 10-day notice.

AUTHORITY NOTE: Promulgated in accordance with P.L. 104-193.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 23:748 (June 1997).

§2755. Cooperative Agreements with Financial Institutions

A. SES will enter into cooperative agreements with financial institutions to match data in an effort to locate assets of noncustodial parents who are delinquent in payment of support, and to place liens or to encumber such assets.

AUTHORITY NOTE: Promulgated in accordance with P.L. 104-193.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 23:749 (June 1997).

Subchapter D. State Case Registry

§2756. Safeguarding Information

A. Support Enforcement Services shall maintain a State Case Registry which contains case names, Social Security numbers, dates of birth, address, and employer information on all cases receiving services and all child support orders issued or modified in the state. This information shall be transmitted to the Federal Case Registry which may be accessed by authorized agencies in other states. If a determination is made that SES has reasonable evidence of family violence, either domestic violence or child abuse, the State Case Registry shall include an indicator of family violence for the individual. The family violence indicator will prohibit release of information to any authorized person or agency, unless the authorized person or agency secures a court order to release the information. The court will make the ultimate decision regarding disclosure of that information to the requester.

B. Reasonable evidence of *family violence* is defined by any one of the following:

1. a protective order has been entered with respect to either party or the child;

2. DSS or medical records indicate violence or abuse;

3. corroborative evidence from at least two witnesses;

4. residence in a shelter for battered women;

5. good cause determination has been made by FITAP, Medicaid, or Foster Care.

AUTHORITY NOTE: Promulgated in accordance with P.L. 104-193, 45 CFR 303.15, 303.21 and 307.11, and R.S. 46:236.10.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 25:879 (May 1999).

Chapter 28. Non-IV-D Program

Subchapter A. Non-IV-D Case Administration

§2801. General Provisions

A. In all new child support orders not being enforced by the Department of Social Services, payments for immediate income assignment orders shall be made payable through the Department of Social Services, Office of Family Support, Support Enforcement Services. Services provided are limited to accepting payments through immediate income assignment, distributing those payments, maintaining payment history records, and retaining records in the same manner as IV-D cases. Enforcement services are not provided. Case records are determined confidential as per R.S. 46:56.

B. Payments shall be made payable to the Department of Social Services. When a payment is received from the noncustodial parent or that parent's employer, the support payment will be distributed in accordance with standards for child support orders not associated with IV-D services. The clerks of court will provide information to identify a case if requested by the Department of Social Services.

AUTHORITY NOTE: Promulgated in accordance with 45 CFR 303.100, P.L. 100-485 and R.S. 9:303; 42 U.S.C. Section 654(b) and R.S. 46:236.11.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 20:449 (April 1994), amended LR 26:2830 (December 2000), LR 36:74 (January 2010).

§2802. Agency Guidelines

A. Information required to be provided in order for the department to properly identify and distribute payments are the names, mailing addresses, Social Security numbers, and dates of birth of both the custodial and absent parent, obligation amount, effective date of obligation, frequency of payment, docket number, child(ren)'s name(s), child(ren)'s Social Security numbers, and child(ren)'s dates of birth. Custodial parents must report changes of address to the Department of Social Services. If there is insufficient identifying information to process a payment, the department will hold payments in a suspense file until necessary information is received.

B. Whenever a posting and/or distribution error is discovered resulting in an overpayment, action will be taken to resolve the problem by asking the custodial parent to return the check to the department. Otherwise, the department will institute recoupment of the overpayment by withholding up to 10 percent from future payment(s) in the case.

C. When there are disputes regarding the handling of the immediate income assignment on a non-IV-D case, the parties may ask for an administrative review of the matter through written request to the director, Support Enforcement Services, Box 94065, Baton Rouge, LA 70804-4065.

AUTHORITY NOTE: Promulgated in accordance with 45 CFR 303.100, P.L. 100-485 and R.S. 9:303.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 20:449 (April 1994).

Title 67
SOCIAL SERVICES
Part III. Family Support
Subpart 6. General Assistance (GA)

Chapter 33. Application, Eligibility, and Furnishing Assistance

Subchapter A. Application, Determination of Eligibility, and Furnishing Assistance

§3301. Phase Out of General Assistance Program

A. The Department of Health and Human Resources, Office of Family Security will discontinue accepting applications for its general assistance program with the benefits currently being paid phased out and will eliminate all expenditures under the program no later than June 30, 1986.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:51 and R.S. 36:254.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, LR 11:753 (August 1, 1985), amended LR 11:1079 (November 1985).

Title 67
SOCIAL SERVICES
Part III. Family Support
Subpart 8. U.S. Citizens Repatriation Program

Chapter 39. Organization

Subchapter A. Designation and Authority of State Agency

§3901. Authority

A. The U.S. Citizens Repatriation Program is established in accordance with applicable Sections of 45 CFR.

AUTHORITY NOTE: Promulgated in accordance with applicable Sections of 45 CFR.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 17:1226 (December 1991).

§3903. State Plan

A. Effective November 1, 1985, Louisiana will implement the state plan in order to allow for the activation of the Emergency Repatriation Program in the event that an emergency occurs in a foreign country which would require the immediate evacuation of American citizens and their dependents from overseas areas to the continental United States. A copy of this plan is available for review in each local Office of Family Security.

AUTHORITY NOTE: Promulgated in accordance with 45 CFR 212.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 17:1226 (December 1991).

Title 67

SOCIAL SERVICES

Part III. Family Support

Subpart 9. Refugee Resettlement Program

Chapter 41. Administration

§4101. Authority

A. The Refugee Resettlement Program is established in accordance with applicable Sections of 45 CFR.

AUTHORITY NOTE: Promulgated in accordance with applicable Sections of 45 CFR.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 17:1226 (December 1991).

Chapter 43. Application, Eligibility, and Furnishing Assistance

Subchapter A. Coverage and Conditions of Eligibility

§4301. Coverage and Conditions

A. The Department of Health and Human Resources, Office of Family Security, shall revise the Refugee Resettlement Program as follows.

1. A refugee must register for employment services as a condition of receiving cash assistance regardless of his/her date of entry into the United States unless otherwise exempt from such registration.

2. Every employable refugee shall participate in any social service program that the Office of Family Security and/or Office of Human Development determines is available and appropriate.

3. An employable refugee's cash assistance shall be terminated (after opportunity for an administrative hearing) with the month in which the refugee refuses an appropriate offer of employment or refuses to participate in an available and appropriate Social Service Program.

4. Cash assistance shall not be made available to refugees who are full time students in institutions of higher education.

B. The above revisions shall become effective March 1, 1983.

AUTHORITY NOTE: Promulgated in accordance with P.L. 97-383 seq. and ORR-AT-82-3.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Family Security, LR 9:63 (February 1983).

Subchapter B. Need and Amount of Assistance

§4303. Earned Income Disregard

A. The Department of Health and Human Resources, Office of Family Security shall not allow refugee resettlement recipients an earned income disregard of $30 plus one third of the remainder of the earnings when determining the grant amount.

AUTHORITY NOTE: Promulgated in accordance with F.R. 47:10849.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Family Security, LR 8:599 (November 1982).

§4305. Payment Standard

A. Refugee cash assistance payments for an eligible refugee shall be 100 percent of the payment level which would be appropriate for an eligible filing unit of the same size under the FITAP Program.

AUTHORITY NOTE: Promulgated in accordance with 45 CFR 400.62.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Family Security, LR 9:415 (June 1983).

§4307. Payment Amount

A. Round down to the next lower dollar the budgetary deficit to determine the payment amount for FITAP and refugee resettlement recipients. The budgetary deficit is the amount remaining after subtracting applicable income from the total assistance needs (flat grant amount). Prorate the initial assistance payment for FITAP and refugee resettlement recipients when the case is certified effective the same month as application. Payment will not be made for any period prior to the date of application.

AUTHORITY NOTE: Promulgated in accordance with P.L. 97-248 and F.R. 47:41108 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Family Security, LR 8:648 (December 1982).

Title 67

SOCIAL SERVICES

Part III. Family Support

Subpart 11. Disability Determination Services

Chapter 49. Organization

Subchapter A. Designation and Authority of State Agency

§4901. Federal Guidelines

A. The official policy of the Disability Determinations Program shall be the federally produced and distributed Program Operational Manual System. Any changes in policy promulgated in accordance with federal rulemaking procedures shall be the official policy of the Disability Determinations Program.

AUTHORITY NOTE: Promulgated in accordance with Section 221.(a)(2) of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Family Security, LR 11:770 (August 1985).

Title 67
SOCIAL SERVICES
Part III. Family Support
Subpart 12. Child Care Assistance Program

Chapter 51. Child Care Assistance Program

Subchapter A. Administration, Conditions of Eligibility, and Funding

§5101. Authority

A. The Child Care Assistance Program is established effective October 1, 1997 and administered under the authority of state and federal laws.

AUTHORITY NOTE: Promulgated in accordance with 45 CFR Parts 98 and 99, P.L. 104-193, and R.S. 36:474.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 24:356 (February 1998).

§5102. Definitions

Automated Child Care Time and Attendance—an electronic system that provides accurate and timely capturing, tracking, and reporting of time and attendance data. This system may utilize finger imaging or IVR (Interactive Voice Response) as a mechanism for capturing this data.

Finger Imaging—the measurement of physical characteristics of a finger for use in personal identification.

Full-Time Care—authorized child care calculated to be 30 or more hours per week that is paid in units of days or half days with a maximum of 22 days per month.

Head of Household—an individual who may apply for child care assistance for a child that customarily resides more than half the time with him/her. The individual may be the parent of a child needing child care assistance or may be the adult household member with primary responsibility for the child's financial support and care if the child's parent is not living in the home, or is living in the home but is under age 18 and not emancipated by law, or is disabled and is unable to care for himself/herself and his/her child(ren) as verified by a doctor's statement or worker determination.

Homeless—lacking a fixed, regular, and adequate nighttime residence. The term “homeless” shall encompass children and youths experiencing the particular conditions and situations provided for in subtitle B of title VII of the McKinney-Vento Education for Homeless Children and Youth Act, 42 U.S.C. 11434a(2).

Household—a group of individuals who live together, consisting of the head of household, that person's legal spouse or non-legal spouse, the disabled adult parent who is unable to care for himself/herself and his/her child(ren) who are in need of care, and all children under the age of 18 who are dependent on the head of household and/or spouse, including the minor unmarried parent (MUP) who is not legally emancipated and the MUP's children.

Household Designee (HD)—an adult who is designated (in writing) by the CCAP Head of Household, other responsible household member, or authorized representative to drop off and/or pick up the child or children from an authorized CCAP provider. Each household designee may be finger imaged for identity purposes. In the case of an in-home provider, a household designee is the person to whom the provider may release the child or children when the provider leaves the home.

Intentional Program Violation (IPV)—any act by a CCAP client or provider that consists of intentionally making a false or misleading statement, or misrepresenting, concealing, or withholding relevant facts.

Part-Time Care—authorized child care calculated to be less than 30 hours per week, paid in units of hours (total per day may not exceed daily rate) up to a maximum of 129 hours per month.

Seeking Employment—register for work with Louisiana Workforce Commission (LWC) by creating a helping individuals reach employment (HiRE) account and by maintaining an active work registration within their HiRE account.

Special Needs Child Care—child care for a child through age 17 who because of a mental, physical, or emotional disability, requires specialized facilities, lower staff ratio, and/or specially trained staff to meet his or her developmental and physical needs. Incentive payments up to 25 percent higher than the regular rates can be allowed for a special needs child if the provider is actually providing the specialized care.

Training or Employment Mandatory Participant (TEMP)—a household member who is required, to meet criteria described in §5103.B.4 including the head of household, the head of household's legal spouse or non-legal spouse, the MUP age 16 or older whose child(ren) need child care assistance, and the MUP under age 16 whose child(ren) live with the MUP and the MUP's disabled parent/guardian who is unable to care for the MUP's child(ren) while the MUP goes to school/work.

Transitional Living Program—any residential program or facility providing housing to homeless people, including but not limited to: emergency shelters; runaway and homeless

youth residential programs or facilities; programs for parenting youth; programs for individuals who are fleeing domestic violence, dating violence, sexual assault, or stalking; transitional housing programs; and prisoner reentry programs.

AUTHORITY NOTE: Promulgated in accordance with 45 CFR Parts 98 and 99, P.L. 104-193, 7 CFR Part 273, ACF Guidance: ACYF-IM-CC-05-03, P.L. 110-246.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 26:2826 (December 2000), amended LR 27:1932 (November 2001), LR 28:1490 (June 2002), LR 29:43 (January 2003), LR 29:189 (February 2003), LR 30:1484 (July 2004), LR 31:2262 (September 2005), LR 32:1464 (August 2006), LR 36:845 (April 2010), LR 36:1278 (June 2010), amended by the Department of Children and Family Services, Economic Stability and Self-Sufficiency Section, LR 36:2535 (November 2010), amended by the Department of Children and Family Services, Economic Stability Section, LR 41:531 (March 2015).

§5103. Conditions of Eligibility

A. Family Independence Temporary Assistance Program (FITAP) recipients who are satisfactorily participating in the Strategies to Empower People (STEP) Program, as determined by the case worker, are categorically eligible. The program will pay 100 percent of the FITAP/STEP participant's child care costs, up to the maximum amounts listed in §5109.B. The following eligibility criteria must be met.

1. The household must include a child in current need of child care services who is under the age of 13, or age 13-17 and physically or mentally incapable of caring for himself or herself, as verified by a physician or certified psychologist, or by receipt of Supplemental Security Income (SSI), or who is under court supervision.

B. Low-income families not receiving FITAP cash assistance, including former FITAP recipients who are given priority consideration, must meet the following eligibility criteria.

1. The household must reside in Louisiana to be eligible for child care assistance.

2. The household must include a child in current need of child care services who is under the age of 13, or age 13-17 and physically or mentally incapable of caring for himself or herself, as verified by a physician or certified psychologist, or by receipt of Supplemental Security Income (SSI), or who is under court supervision.

3. The child must customarily reside more than half the time with the person who is applying for child care services. A child is considered to be residing with the head of household during scheduled absences from the home/day care, lasting up to six weeks, if there are definite plans for the child to return to the home/day care facility.

4. Effective September 1, 2002, unless disabled as established by receipt of Social Security Administration disability benefits, supplemental security income, Veterans' Administration disability benefits for a disability of at least 70 percent, or unless disabled and unable to care for his/her child(ren) as verified by a doctor's statement or by worker determination, the TEMP must be:

a. effective June 1, 2011, employed for a minimum average of 30 hours per week and all countable employment hours must be paid at least at the federal minimum hourly wage; or

b. attending a job training or educational program for a minimum average of, effective June 1, 2011, 30 hours per week (attendance at a job training or educational program must be verified, including the expected date of completion); or

c. engaged in some combination of employment which is paid at least at the federal minimum hourly wage, or job training, or education as defined in Subparagraph B.4.b of this Section that averages, effective June 1, 2011, at least 30 hours per week;

d. Exception: a household in which all of the members described in Paragraph B.4 of this Section meet the disability criteria is not eligible for child care assistance unless one of those members meets, effective June 1, 2011 the required minimum average of 30 activity hours per week.

e. Exception: The employment and training activity requirements may be waived for a period of 180 days from the effective date of certification for homeless parents or persons acting as parents who demonstrate that they are seeking employment or participating in a transitional living program as defined in Section 5102. There is a six-month lifetime maximum for this exception.

5. Household income does not exceed 55 percent of the state median income for a household of the same size. *Income* is defined as:

a. the gross earnings of the head of household, that person's legal spouse, or non-legal spouse and any minor unmarried parent who is not legally emancipated and whose children are in need of child care assistance, with the exception of income from:

i. Corporation for National and Community Service (CNCS);

ii. college work study; and

iii. disaster-related employment.

b. recurring unearned income of the following types for all household members:

i. Social Security Administration benefits;

ii. supplemental security income;

iii. Veterans' Administration benefits;

iv. retirement benefits;

v. disability benefits;

vi. child support/alimony;

vii. unemployment compensation benefits;

viii. adoption subsidy payments, and workers' compensation benefits.

6. The child in need of care must be either a citizen or a qualified alien. CCAP policy on qualified aliens is the same as policy defined by the Family Independence Temporary Assistance Program (FITAP).

7. Effective November 1, 2005, the household must be current on payment of co-payments to any current or previous provider(s). Verification will be required that co-payments are not owed when:

a. a change in provider is reported;

b. at application for child care assistance, the most recent case rejection or closure was due to owing co-payments or not making necessary co-payments;

c. a child care provider reports that the client owes co-payments or is not making necessary co-payments.

C. The family requesting child care services must provide the information and verification necessary for determining eligibility and benefit amount, and meet appropriate eligibility requirements established by the state. However, the verification of a child's age and/or immunizations may be waived for a period of 90 days from the effective date of certification for a household in which all of the members meet the homeless definition described in Section 5102, as long as all other eligibility factors described in Section 5103, Subsection B, Paragraphs 1-3 and 5-7 are met.

D. Cases eligible for payment may be assigned a certification period of up to twelve months. However, cases based on §5103.B.4.e that have waived the 30 hours per week employment and training requirement for a homeless family shall be assigned a certification period of six months.

E. Effective October 1, 2004, all children receiving services must be age-appropriately immunized according to the schedule of immunizations as promulgated by the Louisiana Office of Public Health, or be in the process of receiving all age-appropriate immunizations. No person is required to comply with this provision if that person or his/her parent or guardian submits a written statement from a physician stating that the immunization procedure is contraindicated for medical reasons, or if the person or his/her parent or guardian objects to the procedure on religious grounds. However, the verification of a child's age and/or immunizations may be waived for a period of 90 days from the effective date of certification for a household in which all of the members meet the homeless definition described in Section 5102, as long as all other eligibility factors described in Section 5103, Subsection B, Paragraphs 1-3 and 5-7 are met.

F. CCAP households must participate in the system designated by the agency for capturing time and attendance. This process may include finger imaging for the head of household and their household designees. The agency will determine the maximum number of household designees allowed on a CCAP case. Finger imaging is a requirement to participate in CCAP if the provider chosen by the client utilizes this as the mechanism for capturing time and attendance. Exceptions may be granted by the Executive Director of Economic Stability or his or her designee on a case-by-case basis.

G. If a client chooses care in an in-home provider setting, the client must possess a working landline telephone.

AUTHORITY NOTE: Promulgated in accordance with 45 CFR Parts 98 and 99, P.L.104-193, Act 58 2003 Reg. Session, ACF Guidance: ACYF-IM-CC-05-03.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 24:356 (February 1998), amended LR 25:2444 (December 1999), LR 26:2827 (December 2000), LR 27:1932 (November 2001), LR 28:1490 (June 2002), LR 29:43 (January 2003), LR 29:1106 (July 2003), LR 29:1833 (September 2003), LR 30:496 (March 2004), LR 30:1487 (July 2004), LR 31:101 (January 2005), LR 31:2263 (September 2005), LR 32:1464 (August 2006), LR 33:506 (March 2007), LR 34:692 (April 2008), LR 36:845 (April 2010), LR 36:1278 (June 2010), repromulgated LR 36:1767 (August 2010), amended by the Department of Children and Family Services, Division of Programs, LR 37:1374 (May 2011), amended by the Department of Children and Family Services, Division of Programs, Economic Stability Section, LR 38:3103 (December 2012), amended by the Department of Children and Family Services, Economic Stability Section, LR 41:531 (March 2015).

§5104. Reporting Requirements Effective February 1, 2004

A. A low income child care household that is not included in a Supplemental Nutrition Assistance Program Simplified Reporting household shall report any change that affects eligibility or the amount of monthly benefits. Changes in income must be reported if the household's gross monthly income changes by more than $100 in earned income or $50 in unearned income. Changes shall be reported within 10 days of the knowledge of the change.

B. A low income child care household that is included in a SNAP simplified reporting household is subject to the simplified reporting requirements in accordance with LAC 67:III.2013. In addition, these households must report the following changes within 10 days of the knowledge of the change:

1. a change in child care provider;

2. an interruption of at least three weeks or termination of any TEMP's employment or training, or

3. a child receiving CCAP services leaves the home.

AUTHORITY NOTE: Promulgated in accordance with 45 CFR Parts 98 and 99, P.L. 104-193, 7 CFR Part 273, ACF Guidance: ACYF-IM-CC-05-03, P.L. 110-246.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 30:1487 (July 2004), amended LR 31:2263 (September 2005), LR 32:1464 (August 2006), LR 36:1278 (June 2010), amended by the Department of Children and Family Services, Economic Stability and Self-Sufficiency Section, LR 36:2535 (November 2010).

§5105. Funding Availability

A. Louisiana's share of the national total of available funds for child care programs is based on factors determined by federal law and regulation. Funds are appropriated by Congress and allocated on an annual basis so that a limited amount of federal funding is available each year through the Child Care and Development Fund (CCDF). Therefore, a determination will be made of the number of children, or "slots," that the CCDF can pay for based on available funding.

1. The children of STEP participants shall be categorically eligible for child care benefits. The children of STEP participants whose FITAP eligibility is terminated due to earned income will be given priority status with slots available for them as long as other eligibility factors are met and funding is available.

2. Children with special needs will be given priority status should it be necessary for a waiting list to be implemented. Children with special needs will be given priority status with slots available for them as long as other eligibility factors are met.

3. After all available slots are filled; a waiting list of cases or eligible children will be established and maintained for each parish in chronological order by date of application. As slots become available, cases will be removed from the waiting list and considered for current eligibility.

a. To facilitate maintaining an active waiting list in each parish, open enrollment will be scheduled for a limited time in the months of October, January, April, and July. During open enrollment periods, children determined eligible will be added to the waiting list. At the agency's discretion additional enrollment periods may be designated.

B. The secretary of the Department of Children and Family Services (DCFS) has the authority to implement an application freeze based on the lack of available child care funds to operate the Child Care Assistance Program.

AUTHORITY NOTE: Promulgated in accordance with 45 CFR Parts 98 and 99, and P.L. 104-193; Act 58, 2003 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 24:356 (February 1998), amended LR 26:2827 (December 2000), LR 30:496 (March 2004), LR 36:845 (April 2010), amended by the Department of Children and Family Services, Division of Programs, LR 37:1374 (May 2011).

§5106. Ineligible Payments

A. All ineligible benefits are subject to action to recover such benefits with the exception of inadvertent household error claims and administrative error claims of $125 or less for non participating households.

B. Action will be taken to recover all claims for participating households, all claims which are determined to be the result of intentional program violation (IPV), and all claims resulting from errors which are discovered in a quality control review.

C. When a participant is suspected of IPV, appropriate referral and forms shall be submitted to the Fraud and Recovery Section. The Fraud and Recovery Section may then:

1. refer the case for prosecution; or

2. refer the case to the Appeals Bureau for a disqualification hearing if the participant does not sign the waiver of right to an administrative hearing and the facts of the case do not warrant civil or criminal prosecution through the appropriate court systems; or the case was previously referred for prosecution and was declined by the appropriate legal authority; or the case was previously referred for prosecution and no action was taken within a reasonable period of time and the referral was formally withdrawn by Fraud and Recovery.

D. If IPV is established, Fraud and Recovery will send a notice to the person to be disqualified and a copy of the notice to the local DCFS office. The local DCFS office will take action to disqualify for the appropriate situations:

1. 12 months for the first violation;

2. 24 months for the second violation; and

3. permanently for the third violation.

AUTHORITY NOTE: Promulgated in accordance with 45 CFR Parts 98 and 99, P.L. 104-193, and Act 58, 2003 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Children and Family Services, Economic Stability and Self-Sufficiency Section, LR 36:2535 (November 2010), amended by the Department for Children and Family Services, Economic Stability Section, LR 39:2192 (August 2013).

Subchapter B. Child Care Providers

§5107. Child Care Providers

A. The head of household, or parent/caretaker relative in the case of a STEP participant, shall be free to select a child care provider of his/her choice including center-based child care (licensed Class A centers, licensed Class A Head Start centers which provide before-and-after school care and/or summer programs, and child care centers licensed by the Department of Defense), a registered family child day care home (FCDCH) provider, in-home child care, and public and non-public BESE-regulated schools which operate kindergarten, pre-kindergarten, before and after school and/or summer programs.

B. A licensed Class A center, licensed Class A Head Start center, or center licensed by the Department of Defense must be certified and active in the CCAP provider directory before payments can be made to that provider.

1. To be eligible for participation in CCAP, a licensed Class A center, licensed Class A Head Start center, or center licensed by the Department of Defense must complete and sign a Class A or Department of Defense provider agreement as appropriate and Form W-9, and meet all requirements, including:

a. provide complete and accurate documentation and information required for direct deposit;

b. participate in the system designated by the department for capturing time and attendance and possess the minimum equipment necessary to operate the system which includes a working internet connection at the center. A landline telephone can be substituted only if internet connection is unavailable due to no provider of service at the level required.

c. provide verification of identity and Social Security number of all owners and directors.

C. An FCDCH provider must be registered and active in the CCAP provider directory before payments can be made to that provider.

1. To be eligible for participation in CCAP, an FCDCH provider must meet registration requirements as provided in R.S. 46:1441 et seq., complete and sign an FCDCH provider agreement, complete a CCAP application for registration and Form W-9, pay appropriate fees, furnish verification of Social Security number, identification, and residential address, provide proof that he/she is at least 18 years of age, and meet all registration requirements, including:

a. certification that they, nor any person employed in their home or on their home property, have never been the subject of a validated complaint of child abuse or neglect, or have never been convicted of, or pled no contest to, a crime listed in R.S. 15:587.1.(C);

b. submission of verification of current certification in infant/child/adult Cardiopulmonary Resuscitation (CPR) if the provider is a relative of a child in care;

c. submission of verification of current certification in pediatric first aid;

d. submission of criminal background check(s) on all adults living at the provider's residence or employed by the provider and working in the provider's home or on the provider’s home property, including the provider; each of which must be received from State Police indicating no enumerated conviction if the provider is a relative of a child in care;

e. effective March 1, 2002, submission of verification of 12 clock hours of training in job-related subject areas approved by the Department of Children and Family Services annually;

f. retainment of a statement of good health signed by a physician or his designee which must have been obtained within the past three years and be obtained every three years thereafter;

g. possession of a working telephone that can receive incoming calls and that can send outgoing calls and that is available at all times in the home in which care is being provided;

h. usage of only safe children's products and removal from the premises of any products which are declared unsafe and recalled as required by R.S.46:2701-2711. (CCAP FCDCH providers will receive periodic listings of unsafe and recalled children's products from the Consumer Protection Section of the Attorney General, Public Protection Division);

i. caring for no more than six children, including his own children and any other children living at his residence, who are under age 13 or age 13 through 17 if disabled;

j. participation in the system designated by the department for capturing time and attendance and possess the minimum equipment necessary to operate the system which includes a working internet connection or a landline telephone.

2. All registration functions for FCDCH providers, as provided in R.S. 46:1441 et seq. and as promulgated in the *Louisiana Register*, September 20, 1991, previously exercised by the Bureau of Licensing, shall be carried out by the Department of Children and Family Services.

D. An in-home child care provider must be certified and active in the CCAP provider directory before payments can be made to that provider.

1. To be eligible for participation, an in-home child care provider must be at least 18 years of age, complete and sign an in-home provider agreement and Form W-9, pay appropriate fees, furnish verification of Social Security number, identification, and residential address, and meet all certification requirements, including:

a. certification that he/she has never been the subject of a validated complaint of child abuse or neglect or has never been convicted of, or pled no contest to, a crime listed in R.S. 15:587.1.(C);

b. submission of verification of current certification in infant/child/adult Cardiopulmonary Resuscitation (CPR) and pediatric first aid;

c. submission of a criminal background check conducted by State Police indicating no enumerated conviction;

d. completion of the Health and Safety Standards Form;

e. retain a statement of good health signed by a physician or his designee which must have been obtained within the past three years and be obtained every three years thereafter;

f. possession of or access to a working telephone that can receive incoming calls and that can send outgoing calls and that is available at all times in the home in which care is being provided;

g. participation in the system designated by the department for capturing time and attendance.

E. Before payments can be made to a public or non-public school program, the provider must:

1. be certified and active in the CCAP Provider Directory;

2. complete and sign a school program provider agreement and Form W-9;

3. be regulated by the Board of Elementary and Secondary Education (BESE) if a public school or Brumfield vs. Dodd approved if a non-public school;

4. provide complete and accurate documentation and information required for direct deposit before payments can be made to that provider; and

5. participate in the system designated by the department for capturing time and attendance and possess the minimum equipment necessary to operate the system which includes a landline telephone;

6. verify that all children funded under the program are eligible children as defined in Part 98 of Title 45 of the Code of Federal Regulations.

F. Under no circumstance can the following be an eligible CCAP provider:

1. a person living at the same residence as the child;

2. the child's parent or guardian, or parent/caretaker relative in the case of a STEP participant, whether or not that individual lives with the child;

3. an FCDCH provider, (if the child's non-custodial parent is residing in the FCDCH and is not working or attending a job training or educational program during the hours the care is needed);

4. a Class B child care center;

5. an individual who has been the subject of a validated complaint of child abuse or neglect, or has been convicted of, or pled no contest to, a crime listed in R.S. 15:587.1(C);

6. an FCDCH provider who resides with or employs a person in their home or on their home property who has been the subject of a validated complaint of child abuse or neglect, or has been convicted of, or pled no contest to, a crime listed in R.S. 15:587.1.C;

7. a person/center providing care outside of the state of Louisiana.

G.1. A provider shall be denied or terminated as an eligible CCAP provider:

a. if an FCDCH provider fails to pass inspection by the fire marshal;

b. if a provider fails to timely return all requested forms and fees;

c. if a Class A or Department of Defense center's license is revoked or not renewed;

d. if a school child care provider no longer meets the BESE regulations;

e. if a school child care provider is no longer Brumfield vs. Dodd approved; or

f. for any period for which the provider is disqualified as described in LAC 67:III.5113;

g. if a Class A, Department of Defense, or school child care provider fails to submit complete and accurate documentation and information required for direct deposit.

2. A provider agreement may be terminated by either party for any reason upon giving 30 days advance notice to the other party.

H.1. Quality incentive bonuses are available to:

a. effective May 1, 2004, eligible CCAP providers who provide special care for children with special needs. This special needs care includes but it is not limited to specialized facilities/equipment, lower staff ratio, and specially trained staff. The amount of these Special Care Needs Incentive payments will be in accordance with §5109.B.1.b and §5109.B.2.b;

b. eligible child care centers that employ a teacher who attends specified infant/toddler training on a first-come, first-serve basis, on a limited basis due to one-time American Recovery and Reinvestment ACT (ARRA) funding. A maximum of 10 centers per region are eligible to receive a $2000 grant for infant/toddler materials and equipment. However, if all applications have been received and one region has less than 10 qualified or interested centers and another region has additional qualified centers that wish to participate, resources may be moved to allow full participation and benefit from the ARRA funding. The center must meet requirements and participation targets to receive the grant. Centers must apply and meet the requirements to be eligible. Eligibility will be determined by the Division of Child Care and Early Childhood Education;

c. eligible teachers who work for an eligible center as described in LAC 67: 5107.H.1.b. and elect to attend this specialized infant/toddler training. Up to four infant/toddler teachers employed by the eligible center may attend. Teachers can receive wage supplements up to $1500 for participation but must meet requirements and participation targets to receive wage supplements. Teachers must apply and meet the requirements to be eligible. Eligibility will be determined by the Division of Child Care and Early Childhood Education.

d. eligible CCAP providers who are voluntarily participating in the Louisiana Department of Education community network pilots effective July 1, 2013-June 30, 2014 with 3-5 stars in the quality start child care rating system who are caring for CCAP-eligible children birth to five years, as part of the implementation of Act 3 of the 2012 Legislature.

2. These bonus amounts may be adjusted at the discretion of the assistant secretary, based upon the availability of funds.

I. On a limited basis due to one-time American Recovery and Reinvestment Act (ARRA) funding, an incentive will be offered to certain Quality Start centers with a collaborative agreement with a local education agency to

provide pre-kindergarten, specifically C. Picard Pre-kindergarten Program (LA 4). Payments will be available on a first-come, first-serve basis to up to three qualifying centers in each DCFS region. The bonus will be equal to $500 for each child included in the agreement. The collaborative agreement can be based on, but not limited to, the following criteria.

1. Head start programs for which the school is the grantee do not qualify to be part of this program.

2. A center can receive no more than one such bonus for any state fiscal year.

3. The amount and number of centers receiving the bonus in each region may be adjusted at the discretion of the assistant secretary, based upon the availability of funds.

AUTHORITY NOTE: Promulgated in accordance with 45 CFR Parts 98 and 99, P.L. 104-193,Act 152, 2002 First Extraordinary Session, Act 13, 2002 Reg. Session, Act 58, 2003 Reg. Session, ACF Guidance: ACYF-IM-CC-05-03.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 24:357 (February 1998), amended LR 25:2444 (December 1999), LR 26:2827 (December 2000), LR 27:1932 (November 2001), LR 28:349 (February 2002), LR 28:1491 (June 2002), LR 29:43 (January 2003), LR 29:189 (February 2003), LR 30:496 (March 2004), LR 30:1484, 1487 (July 2004), LR 31:102 (January 2005), LR 31:2263 (September 2005), LR 32:1465 (August 2006), LR 32:2097 (November 2006), LR 33:507 (March 2007), LR 34:692 (April 2008), LR 36:555 (March 2010), LR 36:845 (April 2010), amended by the Department of Children and Family Services, Economic Stability and Self-Sufficiency Section, LR:36:2535 (November 2010), amended by the Department of Children and Family Services, Economic Stability Section, LR 37:3490 (December 2011), LR 39:2737 (October 2013).

§5109. Payments

A. The sliding fee scale used for non-FITAP recipients will be revised based on the state median income and federal poverty levels, on an annual basis to the extent that funds are available. A non-FITAP household shall pay a portion of its child care costs monthly in accordance with the sliding fee scale, and this shall be referred to as a "co-payment." The sliding fee scale is based on a percentage of the state median income.

B. Determination of Payments

1. Payments to providers on behalf of non-FITAP recipients with the exception of homeless families who are exempt from employment and training requirements as defined in §5103.B.4.e will be a percentage of the lesser of:

a. the provider's actual charge multiplied by authorized service days or authorized service hours; or

b. the state maximum rate for authorized services effective January 1, 2007, and with the addition of rates for class M centers effective October 30, 2009, as indicated below.

Provider Type	Regular Care	Regular Care for Infants/Toddlers (under age 3)	Special Needs Care Incentive	Special Needs Care Incentive for Infants/Toddlers (under age 3)
Class A	$17.50	$18.50	$21.65	$22.65
Class E	$15.00	$16.00	$18.50	$19.50
Class R	$15.00	$16.00	$18.50	$19.50
Class U	$14.50	$15.50	$17.90	$18.90
Class M	$17.50	$18.50	$21.65	$22.65

2. Payments to providers on behalf of FITAP recipients and homeless families who are exempt from employment and training requirements as defined in §5103.B.4.e will be the lesser of:

a. the provider's actual charge multiplied by authorized service days or authorized service hours; or

b. the state maximum rate for authorized services effective January 1, 2007, as indicated below.

Provider Type	Regular Care	Regular Care for Infants/Toddlers (under age 3)	Special Needs Care Incentive	Special Needs Care Incentive for Infants/Toddlers (under age 3)
Class A	$17.50	$18.50	$21.65	$22.65
Class E	$15.00	$16.00	$18.50	$19.50
Class R	$15.00	$16.00	$18.50	$19.50
Class U	$14.50	$15.50	$17.90	$18.90
Class M	$17.50	$18.50	$21.65	$22.65

3. The number of days or hours authorized for payment is based on the lesser of the following:

a. the time the child is actually in care each week; or

b. the number of hours the head of household, the head of household's spouse or non-legal spouse, or the minor unmarried parent is working and/or attending a job training or educational program each week, plus one hour per day for travel to and from such activity; or

c. effective July 1, 2004, the time the care is actually needed and available.

C. Payment is made to the eligible child care provider after services are rendered.

D. Payment may be made to more than one provider for the same child if the combined payment does not exceed the maximum allowable per child.

E. Payment will not be made for absences of more than two days by a child in any calendar month or for an extended closure by a provider of more than two consecutive days in any calendar month. A day of closure, on a normal operating day for the provider, is counted as an absent day for the child(ren) in the provider's care. If a child authorized for full-time care attends child care less than four hours in one day, this will be counted as a half day absent and half the daily rate will be paid to the provider. No absences will be authorized for part-time care. Exception: in cases of a federal/state/locally declared emergency situation, or other special circumstances, the department may at the discretion

of the deputy secretary of programs waive this absence policy.

F. Electronic disbursement of child care payments shall be mandatory for all types of CCAP providers. Electronic disbursement of child care payments includes direct deposit to the CCAP provider's bank account (checking or savings) or payments to a stored value card account for the CCAP provider. It is mandatory for Class A, Class M, and school child care providers to utilize direct deposit to receive their CCAP payments. The fees associated with the use of a stored value card are subject to the conditions of that financial institution.

AUTHORITY NOTE: Promulgated in accordance with 45 CFR Parts 98 and 99, and P.L. 104-193, ACF Guidance: ACYF-IM-CC-05-03.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 24:357 (February 1998), amended LR 25:2445 (December 1999), LR 26:2828 (December 2000), LR 27:1933 (November 2001), LR 28:1491 (June 2002), LR 29:1834 (September 2003), LR 30:1485 (July 2004), repromulgated LR 30:2078 (September 2004), amended LR 31:2265 (September 2005), LR 32:1465 (August 2006), LR 32:2097 (November 2006), LR 33:507 (March 2007), LR 34:692 (April 2008), LR 36:555 (March 2010), LR 36:847 (April 2010), LR 36:1278 (June 2010), amended by the Department of Children and Family Services, Economic Stability Section, LR 37:3491 (December 2011), amended by the Department of Children and Family Services, Division of Programs, Economic Stability Section, LR 38:3104 (December 2012), amended by the Department of Children and Family Services, Economic Stability Section, LR 41:532 (March 2015).

§5113. Disqualification Periods for CCAP Providers

A. A child care provider shall be disqualified from receiving CCAP payments if the department determines that certain acts or violations have been committed by that provider. CCAP disqualifications shall apply as follows.

1. A criminal background check (CBC) shows that a provider has been convicted of or pled no contest to any defense in another jurisdiction whose elements would constitute an enumerated offense under in R.S.15:587.1(C) if committed within Louisiana, shall result in permanent disqualification. If a CBC shows that a person living in or working in an FCDCH or a person working in a Class A, Class E center, or child care center licensed by the Department of Defense (Class M) shows the person has been convicted of or pled no contest to any offense enumerated in R.S. 15:587.1(C), or has been convicted or pled no contest to any offense in another jurisdiction whose elements would constitute an enumerated offense under R.S. 15:587.1(C) if committed within Louisiana, the provider shall be disqualified until that person is no longer living in or working in the FCDCH or working in the Class A, Class E, or Class M center. For purposes of this Section a conviction under La C.Cr.P. Artts 893 or 894, or equivalent provisions of another jurisdiction, shall constitute a conviction.

2. A Category 1 validated complaint of child abuse or neglect on the provider shall result in permanent disqualification. If the Category 1 validated complaint is for a person living in or working in an FCDCH or for a person working in a Class A, Class E, or Class M center, the provider shall be disqualified until that person is no longer living in or working in the FCDCH or working in the Class A, Class E, or Class M center. The following types of validated complaints of child abuse or neglect are considered to be Category 1 complaints: bone fracture, factitious disorder by proxy/Munchausen by proxy syndrome, poisoning or noxious substance ingestion, suffocation, whiplash/shaken infant syndrome, HIV/AIDS and hepatitis, prostitution, sexual intercourse (vaginal or anal), failure to thrive (non-organic), central nervous system damage/brain damage/skull fracture, internal injury, subdural hematoma, torture, wounds, oral sex, sexual exploitation/pornography, sexually transmitted disease, malnutrition/starvation, death/abuse, death/neglect, perpetrators who have an adjudication of a child in need of care, perpetrators with a voluntary or involuntary Termination of Parental Rights (TPR) judgment, sexual enticement, simulated intercourse, abandonment, burns, eye injury, minor head/facial injuries, tying or confinement, passive abuse, exploitation, sexual manipulation or fondling, emotional maltreatment, bruises/cuts/welts/scratches, dislocations or sprains, human bites, mouth/dental trauma, medical neglect, drug/alcohol abuse, dependency, and lack of supervision as described in §5113.A.4. These types of validated complaints of child abuse or neglect are defined by the department.

3. A Category 2 validated complaint of child abuse or neglect on the provider shall result in the disqualification periods described below. If the Category 2 validated complaint is for a person living in or working in an FCDCH or working in a Class A, Class E, or Class M center, the provider shall be disqualified until that person is no longer living in or working in the FCDCH or working in the Class A, Class E, or Class M center, or until the disqualification period described below ends, whichever is sooner. The following types of validated complaints of child abuse or neglect are considered to be Category 2 complaints: inadequate clothing, inadequate food, inadequate shelter, and lack of supervision as described in §5113.A.4. These types of validated complaints of child abuse or neglect are defined by the department. The disqualification periods for Category 2 validated complaints are as follows:

a. 6 months for first validated complaint;

b. 12 months for second validated complaint;

c. 24 months for third and subsequent validated complaints.

4. A validated complaint of child abuse or neglect due to lack of supervision shall be deemed by the department as either a category 1 or a category 2 complaint, based on the severity of the complaint and the circumstances that existed at the time of the complaint.

5. An Intentional Program Violation (IPV) is any act by a CCAP provider that consists of intentionally making a false or misleading statement, or misrepresenting, concealing, or withholding relevant facts. A provider who has committed an IPV will be subject to the following disqualification periods:

a. 12 months for the first violation;

b. 24 months for the second violation; and,

c. permanently for the third violations

6. Non-fraudulent violations of the terms of the CCAP Provider Agreement, shall result in the following disqualification periods:

a. 3 months for first violation;

b. 6 months for second violation; and

c. 12 months for third and subsequent violations.

AUTHORITY NOTE: Promulgated in accordance with 45 CFR Parts 98 and 99, P.L.104-193.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 34:2208 (October 2008), amended LR 36:556 (March 2010), amended by the Department of Children and Family Services, Economic Stability and Self-Sufficiency Section, LR 36:2536 (November 2010), amended by the Department of Children and Family Services, Economic Stability Section, LR 37:3491 (December 2011).

Subchapter C. Child Care Quality Rating System

§5115. Authority

A. The Quality Start Child Care Rating System is established and administered under the authority of state and federal laws.

AUTHORITY NOTE: Promulgated in accordance with 45 CFR Part 98 and R.S. 36:474.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 33:2783 (December 2007), amended LR 34:2408 (November 2008).

§5117. Definitions

Approved Courses—courses that are deemed approved by the department.

Assistant Directors—must be on site for a minimum of 20 hours per week for centers with an enrollment of 101 or more.

Assistant Teachers—any staff who cares for children in a classroom setting that can be assessed using the ITERS-R/ECERS-R and works at least 16 hours per week in the center.

Child Care Center—a licensed day care center.

Child Care Resource and Referral (CCR and R)—a state and/or local organization with whom the department has contracted to provide services to families, early childhood professionals, and communities statewide.

Child Development Associate (CDA) Credential—a nationally recognized credential which can be used to meet staff qualification requirements.

Director—an administrator who meets the director qualifications as outlined in Louisiana Administrative Code, Title 67, Chapter 73, Section 7311 and is on site a minimum of 30 hours per week during operating hours when children are present.

Early Childhood Environment Rating Scale—Revised (ECERS-R)—a research-based assessment tool that measures environmental indicators of quality in preschool classrooms with children ages 2.5-5 years of age.

Environment Rating Scales (ERS)—the assessment tools developed at Frank Porter Graham Child Development Institute at the University of North Carolina that measure environmental indicators of quality. They include the Infant Toddler Environment Rating Scale-Revised (ITERS-R) and the Early Childhood Environment Rating Scale-Revised (ECERS-R), as well as the School Age Care Environment Rating Scale (SACERS) for school age programs, and the Family Child Care Environment Rating Scale-Revised (FCCERS-R) for family child care homes. Only the ITERS-R/ECERS-R apply for purposes of the Quality Start Child Care Rating System at this time.

Group—those children who are assigned for most of the day to a specific teacher and who occupy an individual classroom or well defined space that prevents intermingling of children from different groups within a larger group or area.

Infant Toddler Environment Rating Scale-Revised (ITERS-R)—a research-based assessment tool that measures environmental indicators of quality in preschool classrooms with children 0-2.5 years of age.

Lead Teacher—a teacher who has primary responsibility for a designated classroom that can be assessed using the ITERS-R/ECERS-R, including planning and supervision, and spends at least 25 hours a week in that classroom. All classrooms must have a lead teacher

Louisiana Pathways Child Care Career Development System—the state practitioner registry maintained by the Department of Children and Family Services and/or its contractor. LA Pathways registers child care directors and staff according to requirements based on training and education, experience, and professional activities, as approved by the Department of Children and Family Services. Categories are established for child care staff, child care assistant teacher, child care teacher, child care assistant director and child care director. Information on LA Pathways can be found at http://pathways.louisiana.gov/ or www.dss.state.la.us.

Quality Start Child Care Rating System Points—points given in the Program, Staff Qualifications, Administration Practices, and Family and Community Involvement areas. All items within a point must be verified to receive credit. The total points earned determine the star award at star rating three, four, and five.

Service Period—the months within the calendar quarter for which a child received care.

Social Emotional Subscales of the Environment Rating Scales—a subscale of the ECERS-R and ITERS-R generated by the scores earned on the Language-Reasoning, Interaction

and Program Structure subscales of the ECERS-R and the Listening and Talking, Interaction and Program Structure subscales of the ITERS-R. This new subscale score will be used to determine the ERS score for Program Points 1-4.

AUTHORITY NOTE: Promulgated in accordance with 45 CFR Part 98 and R.S. 36:474.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 33:2783 (December 2007), amended LR 34:2408 (November 2008), amended by the Department of Children and Family Services, Economic Stability Section, LR 37:3492 (December 2011).

§5119. Quality Start Child Care Rating System Requirements

A. The Quality Start Child Care Rating System is designed to assess the level of quality of early care and education for programs serving birth through age five, communicate the level of quality, and support improvements of child care centers. The Quality Start Child Care Rating System consists of five star ratings that can be earned by a licensed child care center, uses licensing as the foundation, and has four star ratings above Louisiana's licensing standards. The system components (administration practices, family and community involvement, program, and staff qualifications) have indicators that must be achieved to earn the star rating.

B. The secretary of the Department of Children and Family Services, in specific instances, may waive compliance with a requirement if it is determined that the economic or adverse impact is sufficiently great to make compliance impractical, as long as the health and well-being of the staff and/or children are not imperiled. If it is determined that the facility or individual is meeting or exceeding the intent of a requirement, the requirement may be deemed to be met. The decision to grant or deny a waiver rests with the sole discretion of the secretary.

1. One Star—to participate at the one-star level, a child care center shall have a license to operate and comply with standards as defined in LAC 67, Chapter 73, Sections 7301-7354.

2. Two Star—to earn a two-star award, a child care center must meet all the standards for a One Star, have been in operation for six months, and meet the following:

a. Administration Practices

i. Written personnel policies including:

(a). operational hours;

(b). dress code;

(c). use of telephone; and

(d). schedule.

ii. Job descriptions that include a list of qualifications on file and provided to all staff.

iii. Provide one staff benefit from the list of options below for all full-time staff. Staff benefit options:

(a). employee health insurance or comparable health benefits;

(b). paid annual leave;

(c). paid sick leave;

(d). paid holidays;

(e). child care benefit/discount;

(f). bonus based on merit/achievement or education;

(g). retirement compensation;

(h). annual increments based on merit;

(i). tuition reimbursement and other related educational expenses such as books, travel, fees, substitutes;

(j). differential shift pay;

(k). flextime;

(l). pay professional association membership fee.

b. Family and Community Involvement

i. Parent provided pre-enrollment visit and center tour.

ii. Give every parent enrolling a child a list of community resources including, but not limited to, LaCHIP, Medicaid, child care assistance, housing assistance, SNAP assistance and information on a child's medical home.

c. Program

i. Make four of the following activity areas available daily:

(a). art and creative play;

(b). children's books;

(c). blocks and block building;

(d). manipulatives; and

(e). family living and dramatic play.

ii. Complete a self assessment of the center's program and develop a Center Improvement Plan.

d. Staff Qualifications

i. Directors and teachers must join and maintain a current record with the Louisiana Pathways Child Care Career Development System. Directors must complete three hours of Introduction to Environment Rating Scale (ERS) training.

ii. Director (on site)

(a). Three semester hour credits in care of young children or child development[1]; and

(b). three semester hour credits in administration[2]; and

(c). one year of experience in teaching young children in an early childhood program.

iii. Assistant Director

(a). Three semester hour credits in the care of young children or child development.[1]

iv. Teacher—Seventy-five percent of lead teachers must meet one of the following.

(a). Complete three semester hour credits course in the care of young children or child development[1] from a list of approved courses or enroll in the course and complete the course within one year of employment.

3. Point Standards for child care centers seeking three star rating, four star rating, and five star ratings. To achieve a higher rating, a child care center must meet all requirements of the two star rating and earn points in program and staff qualifications by meeting the requirements listed below. At least one point must be earned in both program and staff qualifications. The quality point referenced in Subparagraph 3.c. may also be earned. The total number of points will determine the star rating awarded to the center.

Total Number of Points	Star Rating
3-5 points	Three Stars
6-9 points	Four Stars
10-11 points	Five Stars

a. Program

Points	Criteria
1	An average of 3.75 on the designated social-emotional subscale of the Environment Rating Scale (ERS)[3], with no one classroom score lower than 3.0 on the subscale.
2	An average of 4.0 on the designated social-emotional subscale of the ERS[3] with no one classroom score lower than 3.0 on the subscale.
3	1. An average of 4.25 on the designated social-emotional subscale of the ERS[3] with no one classroom score lower than 3.25 on the subscale. 2. Staff: Child Ratio and Group Size 0-12 months 1:4,8 — 25-36 months 1:8, 16 — 4 yrs 1:12, 24 13-24 months 1:6,12 — 3 yrs 1:10, 20 — 5 yrs 1:15, 30 3. Written transition procedures for children moving within a program or to other programs or beginning school.
4	1. An average of 4.5 on the designated social-emotional subscale of the ERS with no one classroom score lower than 3.5 on the overall ERS. 2. Complete screening for social-emotional development with instrument from recommended list for all children (0-5 yrs.) within 45 calendar days of enrollment and annually thereafter. Conference with parents to review results and provide a list of community resources. 3. Staff: Child Ratio and Group Size 0-12 months 1:4, 8 — 25-36 months 1:8, 16 — 4 yrs 1:12, 24 13-24 months 1:6, 12 — 3 yrs 1:10, 20 — 5 yrs 1:15, 30 4. Written transition procedures for children moving within a program or to other programs or beginning school.
5	1. An average of 5.0 on the overall ERS, with no one classroom score lower than 4.0. 2. Complete screening for social-emotional development with instrument from recommended list for all children (0-5 yrs.) within 45 calendar days of enrollment and annually thereafter. Conference with parents to review results and provide a list of community resources. 3. Provide a plan for continuity of care for all children 0-36 months of age. 4. Implementation of Louisiana's Early Learning Guidelines and Program Standards: Birth through Three, (DSS October 2006) and the Louisiana Standards for Programs Serving Four-Year-Old Children (DOE June 2003). 5. Staff: Child Ratio and Group Size: 0-24 months 1:4, 8 2 yrs 1:6, 12 3 yrs 1:8, 16 4 yrs 1:10, 20 5 yrs 1:10, 20

b. Staff Qualifications

Points	Criteria
1	Directors and all lead teachers complete training in Louisiana's Early Learning Guidelines and Standards which encompasses information from Louisiana's Early Learning Guidelines and Program Standards: Birth Through Three, (DSS October 2006) and the Louisiana Standards for Programs Serving Four-Year-Old Children (DOE June 2003). Director (on site) 1. Six semester hour credits in the care of young children or child development[1]; and 2. Three semester hour credits in administrative coursework[2], and 3. One year experience teaching young children in an early childhood program. Assistant Director Three semester hour credits in the care of young children or child development.[1] Lead Teacher All of lead teachers must complete three semester hour credits in the care of young children or child development from a list of approved courses[1] or enroll in the course and complete the course within one year of employment. Assistant Teacher Fifty percent of assistant teachers must have completed or be enrolled in three semester hour credits in the care of young children or child development[1] and complete the course within one year of employment.

2	Directors and all teachers complete training in Louisiana's Early Learning Guidelines and Standards which encompasses information from Louisiana's Early Learning Guidelines and Program Standards: Birth Through Three, (DSS October 2006) and the Louisiana Standards for Programs Serving Four-Year-Old Children (DOE June 2003). Director 1. Nine semester hour credits in the care of young children or child development[1]; and 2. Three semester hour credits in administrative coursework[2]; and 3. One year of teaching experience and one year teaching or administrative experience in an early childhood program. Assistant Director 1. Three semester hour credits in the care of young children or child development[1]; and 2. Three semester hour credits in administrative coursework[2]; and 3. One year experience in teaching young children in an early childhood program. Lead Teacher 1. Seventy-five percent of lead teachers must have completed six semester hour credits in the care of young children or child development[1] from a list of approved courses or have completed three semester hour credits and be enrolled in an additional three semester hour credits in the care of young children, child development or related coursework[1] and complete the course within one year of employment, and 2. One year full-time experience in an early childhood setting. Assistant Teacher Fifty percent of assistant teachers must have completed or be enrolled in three semester hour credits in the care of young children or child development[1] and complete the course within one year of employment.
3	Directors and all teachers complete training in Louisiana's Early Learning Guidelines and Standards which encompasses information from Louisiana's Early Learning Guidelines and Program Standards: Birth Through Three, (DSS October 2006) and the Louisiana Standards for Programs Serving Four-Year-Old Children (DOE June 2003). Director 1. Twelve semester hour credits in the care of young children or child development[1]; and 2. Six semester hour credits of administrative coursework[2]; and 3. Three years experience in an early childhood setting as follows: At least one year of teaching experience and at least one year of administrative experience and one year of either teaching or administrative experience. Assistant Director 1. Three semester hour credits in the care of young children or child development[1]; and 2. Three semester hour credits in administrative coursework[2]; and 3. One year experience in teaching young children in an early childhood program. Lead Teacher 1. Seventy-five percent of lead teachers must have completed nine semester hour credits in the care of young children or child development[1] from a list of approved courses or have completed six semester hour credits and be enrolled in an additional three semester hour credits in the care of young children, child development or related coursework[1] and complete the course within one year of employment, and 2. One year full-time experience in an early childhood setting. Assistant Teacher Fifty percent of assistant teachers must have completed three semester hour credits in the care of young children or child development[1].
4	Directors and all teachers complete training in Louisiana's Early Learning Guidelines and Standards which encompasses information from Louisiana's Early Learning Guidelines and Program Standards: Birth Through Three, (DSS October 2006) and the Louisiana Standards for Programs Serving Four-Year-Old Children (DOE June 2003). Director 1. Fifteen semester hour credits in the care of young children or child development[1]; and 2. Six semester hour credits of administrative coursework[2]; and 3. Four years experience in an early childhood setting as follows: At least one year of teaching experience and at least one year of administrative experience and two years of either teaching or administrative experience. Assistant Director 1. Three semester hour credits in the care of young children or child development[1]; and 2. Three semester hour credits in administrative coursework[2]; and 3. One year experience in teaching young children in an early childhood program. Lead Teacher 1. Seventy-five percent of lead teachers must have completed 12 semester hour credits in the care of young children or child development[1] from a list of approved courses or have completed nine semester hour credits and be enrolled in an additional three semester hour credits in the care of young children, child development or related coursework[1] and complete the course within one year of employment and 2. Two years full-time experience in an early childhood setting. Assistant Teacher All assistant teachers must have completed three semester hour credits in the care of young children or child development[1].
5	Directors and all teachers complete training in Louisiana's Early Learning Guidelines and Standards which encompasses information from Louisiana's Early Learning Guidelines and Program Standards: Birth Through Three, (DSS October 2006) and the Louisiana Standards for Programs Serving Four-Year-Old Children (DOE June 2003). Director 1. Associate's degree in the care of young children, child development or related field, with specific coursework in infant-toddler care, and the care of exceptional children or equivalent such as Director III LA Pathways and 2. Six semester hour credits of administrative coursework[2] and five years experience in an early childhood setting as follows: At least one year of teaching experience and at least one year of administrative experience, and three years of either teaching or administrative experience. Assistant Director 1. Six semester hour credits in the care of young children or child development[1]; and 2. Three semester hour credits in administration[2]; and 3. One year experience in teaching young children in an early childhood program. Lead Teacher 1. All lead teachers must have six semester hour credits in the care of young children or child development[1] from a list of approved courses; and 2. Seventy-five percent of lead teachers must have completed 15 semester hour credits in the care of young children or child

	development[1] from a list of approved courses or have completed 12 semester hour credits and be enrolled in an additional three semester hour credits in the care of young children, child development or related coursework[1] and complete the course within one year of employment; and 3. Two years full-time experience in an early childhood setting for all teachers. Assistant Teacher All assistant teachers must have completed six semester hour credits in the care of young children or child development[1] or have completed three semester hour credits and be enrolled in an additional three semester hour credits in the care of young children, child development or related coursework[1] and complete the course within one year of employment.

c. An additional quality point can be earned by meeting additional requirements in both the administration practices and the family and community involvement areas.

Quality Point	
Points	**Criteria**
1	Administration Practices - meet three requirements below: 1. Provide four of the benefits from the list[4] of options below for all full-time staff. 2. Include grievance procedure and a professional conduct code for staff in written personnel policies. 3. Pay scale based on education, experience, responsibilities and merit. 4. Provide training to staff on cultural sensitivity. 5. Written parent and staff confidentiality policy and provide training to staff and Family and Community Involvement - meet four requirements below: 1. Director or assistant director participates annually in at least two director's meetings provided by the resource and referral agency. 2. Provide a complaint process for parents. 3. Offer opportunity for a formal parent/teacher conference meeting annually. 4. Provide an expanded list of local community resources to parents annually including, but not limited to, LaCHIP, Medicaid, Child Care Assistance, housing assistance, SNAP assistance and information on a child's medical home. 5. Parent Advisory Council meets annually to review policies, procedures and parent handbook. 6. One group meeting per year offered to all families. 7. One parent education workshop offered per year by center or other agency.

The following footnotes reference program criteria and staff qualifications in Section 5119:

Staff Qualifications

[1]The following may be substituted to meet this requirement of three semester hour credits in the care of young children or child development: a current CDA or have approved high school child development courses or have five years full-time experience in an early childhood program or have completed a Child Care Assistant Teacher 1 LA Pathways Classroom Certificate. The following may be used to meet the requirement of up to six semester hour credits in the care of young children or child development: current CDA or have completed a Child Care Assistant Teacher 2 LA Pathways Classroom Certificate. An individual may use the above substitutions to meet the requirements for a maximum of six semester hour credits.

[2]The following may be substituted to meet the requirement for three semester hour credits in administration: LA Pathways Administrator Certificate or National Administrator Credential (NAC) or three years experience in administration or a combination of one year in administration experience and four years in teaching young children in an early childhood program.

NOTE For Director Qualification: Experience in teaching young children or administration may only be substituted one time. At the next rating review, the necessary educational requirement (credits in the care of young children or child development or credits in administration) must be met.

[3]For the purpose of this document, the designated social-emotional subscale of the ERS is defined as consisting of the following subscales: ITERS-R - Listening and Talking, Interaction and Program Structure; ECERS-R - Language-Reasoning, Interaction and Program Structure.

[4]Staff benefits options: employee health insurance or comparable health benefits; paid annual leave; paid sick leave; paid holiday; child care benefit/discount; bonus based on merit/achievement or education; retirement compensation; annual increments based on merit; tuition reimbursement and other related educational expenses such as books, travel, fees, substitutes; differential shift pay, flextime, paid professional association fee.

AUTHORITY NOTE: Promulgated in accordance with 45 CFR Part 98 and R.S.36:474.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 33:2784 (December 2007), amended LR 34:2408 (November 2008), amended by the Department of Children and Family Services, Economic Stability Section, LR 37:3492 (December 2011).

§5121. Participation

A. A child care center will complete the application to participate in the Quality Start Child Care Rating System at one star. If awarded, this will establish the center's initial year in the system.

B. Centers with two to five stars may submit an application for a star(s) six months after the date of award of the current rating or denial of an award. A verification visit will be conducted by the department prior to the award of two or more stars.

C. Quality ratings will be valid for two years from the date of the star rating award as long as the center continues to qualify for the star rating. A rating review, which may be a visit or verification of documentation, will be conducted on a percentage of participating centers to ensure continued compliance.

D. Centers that have achieved a star rating may have their rating reviewed and modified. If at any time, it becomes known to the department or the department receives information from the center that the child care center no longer meets standards for the center's current star rating award.

E. Centers that have achieved a star rating will have their rating revoked if the child care license is revoked or not renewed.

F. Centers that have achieved a star rating may have their rating revoked, or centers applying may be denied, if it is determined by the department that false or misleading statements or documents have been submitted or misrepresented or relevant facts have been concealed or withheld in order to qualify or maintain a star(s) in the quality start child care rating system or to obtain the school readiness tax credit (SRTC).

G. The provider must reimburse the department for all ineligible benefits received.

H. Participation in the quality start child care rating system is voluntary. There are no administrative appeal rights for providers whose participation is denied or terminated.

I. Centers that have their star award revoked by quality start may be prohibited from participating in quality start for 12 months from the date of revocation of star award.

AUTHORITY NOTE: Promulgated in accordance with 45 CFR Part 98 and R.S.36:474.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 33:2788 (December 2007), amended LR 34:2412 (November 2008), LR 36:332 (February 2010), amended by the Department of Children and Family Services, Economic Stability Section, LR 37:3494 (December 2011).

§5123. Quality Start Child Care Rating System Tiered Bonus Payments

A. Bonus payments will be issued after the end of each calendar quarter to Class A child care centers that care for children receiving assistance from the Child Care Assistance Program and for children in the state's Foster Care Program in accordance with the star rating. The payment is equal to a percentage, as defined below, of all child care subsidy payments received by the center from DCFS for services provided during the service period(s) in that quarter and the center's rating(s):

1. one star—0 percent;
2. two star—3 percent;
3. three star—8 percent;
4. four star—13.5 percent;
5. five star—20 percent.

AUTHORITY NOTE: Promulgated in accordance with 45 CFR Part 98 and R.S.36:474.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 33:2788 (December 2007), amended LR 34:2412 (November 2008), amended by the Department of Children and Family Services, Economic Stability Section, LR 37:3194 (December 2011).

§5124. Child Care Quality Rating System Administration

A. The Department of Children and Family Services shall enter into contract with the Louisiana Department of Education to administer the Child Care Quality Rating System which will assess, improve, and communicate the level of quality in early care and education settings.

AUTHORITY NOTE: Promulgated in accordance with 45 CFR Part 98 and R.S. 36:474.

HISTORICAL NOTE: Promulgated by the Department of Children and Family Services, Economic Stability Section, LR 40:49 (January 2014).

Subchapter D. Louisiana Pathways Child Care Career Development System (LA Pathways)

§5125. Authority

A. The Louisiana Pathways Child Care Career Development System (LA Pathways) is the state practitioner registry maintained by the Department of Social Services. LA Pathways offers child care staff, including directors, teachers, assistant teachers and other classroom staff, a formal mechanism to track their training and educational attainment, experience and professional affiliation in the field of early care and education.

AUTHORITY NOTE: Promulgated in accordance with 45 CFR Part 98 and R.S. 36:474 and R.S. 47:6101 et seq.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 34:95 (January 2008).

§5127. Participation in LA Pathways

A. Any individual working or planning to work in the child care industry is eligible to enroll in LA Pathways by completing an application and forwarding the required documents. An application for enrollment and information about enrollment is available at http://pathways.louisiana.gov/ or by phoning the Division of Child Care and Early Childhood Education at 225-342-0694.

1. LA Pathways will register child care directors and staff according to requirements based on training and education, experience and professional activities, as approved by the Department of Social Services. Participation is voluntary.

2. The Secretary of the Department of Social Services, in specific instances, may waive compliance with a requirement if it is determined that the economic or adverse impact is sufficiently great to make compliance impractical, as long as the health and well-being of the staff and/or children are not imperiled. If it is determined that the individual is meeting or exceeding the intent of a requirement, the requirement may be deemed to be met. The decision to grant or deny a waiver rests with the sole discretion of the secretary.

B. Requirement for the Administrator Track for LA Pathways

Child Care Career Ladder Titles	Training and Education Requirements	Experience Requirements	Professional Activity Requirements
Assistant Director I	Annual training as required by Licensing Class A Minimum Standards	none	Encouraged to participate in an early childhood professional organization
Assistant Director II	60 clock hours in approved core knowledge (CDA) subject areas including 6 hours in regulations	minimum 6 months	Encouraged to participate in an early childhood professional organization
Assistant Director III	90 clock hours in approved core knowledge (CDA) subject areas including 15 hours in approved Administrative Training Categories	minimum 1 year	Encouraged to participate in an early childhood professional organization
Director	As required by Licensing Class A Minimum Standards	as required by Licensing	Encouraged to participate in an early childhood professional organization
Director I	CDA Credential or approved early childhood diploma and 30 clock hrs. in approved Administrative Training Categories OR related associate degree or 30 hours toward associate degree with 4 college courses in early childhood or child development	minimum 1 year	Membership in an early childhood professional organization
Director II	CDA Credential or approved early childhood diploma and 45 clock hrs. in approved Administrative Training Categories or National Administrative Credential OR associate degree in early childhood or child development OR related associate degree with 4 college courses in early childhood or child development OR related bachelor degree with 3 college courses in early childhood or child development	minimum 18 months	Membership in an early childhood professional organization and service to the profession such as: serving on a board or committee, presenting at a conference, participating as a CDA advisor or mentor, attendance at a conference or professional event
Director III Administrator Certificate To receive an Administrator Certificate you must have 75 clock hours of instruction in approved Administrative Training Categories 2 college courses in approved administration can be substituted for the Administrator Certificate	CDA Credential or approved early childhood diploma and Administrator Certificate OR associate degree in child development or early childhood and Administrator Certificate OR bachelor degree in early childhood or child development of which 3 college courses focus on infants and toddlers and Administrator Certificate OR related bachelor degree with 6 college courses in early childhood or child development of which 3 courses focus on infants and toddlers and Administrator Certificate	minimum 2 years	Membership in an early childhood professional organization and service to the profession such as: serving on a board or committee, presenting at a conference, participating as a CDA mentor or advisor, attendance at a conference or professional event
Director IV	Masters degree in early childhood, child development or early childhood administration of which 3 courses focus on infants and toddlers and Administrator Certificate OR related masters degree with 8 college courses in early childhood or child development of which 3 courses focus on infants and toddlers and Administrator Certificate	minimum 2 years	Membership in an early childhood professional organization and service to the profession such as: serving on a board or committee, presenting at a conference, participating as a CDA mentor or advisor, attendance at a conference or professional event

C. Requirements for the Classroom Track for LA Pathways.

Child Care Career Ladder Titles	Training and Education Requirements	Experience Requirements	Professional Activity Requirements
Child Care Staff I	As required by Class A Licensing regulations	none	Encouraged to participate in an early childhood professional organization
Child Care Staff II	12 clock hours of instruction in approved core knowledge (CDA) subject areas	minimum 6 months	Encouraged to participate in an early childhood professional organization

Child Care Career Ladder Titles	Training and Education Requirements	Experience Requirements	Professional Activity Requirements
Child Care Staff III	30 clock hours of instruction in approved core knowledge (CDA) subject areas	minimum 1 year	Encouraged to participate in an early childhood professional organization
Child Care Staff IV	60 clock hours of instruction in approved core knowledge (CDA) subject areas	minimum 1 year	Encouraged to participate in an early childhood professional organization
Child Care Assistant Teacher I	90 clock hours of instruction in approved core knowledge (CDA) subject areas	minimum 1 year	Encouraged to participate in an early childhood professional organization
Child Care Assistant Teacher II	120 clock hours of instruction in approved core knowledge (CDA) subject areas	minimum 1 year	Encouraged to participate in an early childhood professional organization
Child Care Teacher I	CDA credential in preschool or infant/toddler specialization OR approved early childhood diploma	minimum 1 year	Encouraged to participate in an early childhood professional organization
Child Care Teacher II	CDA credential or approved early childhood diploma and 9 CEU's or 2 early childhood college courses OR 30 hours toward associate degree with 4 college courses in early childhood or child development OR related associate degree	minimum 2 years	Membership in an early childhood professional organization and service to the profession such as: committee or board membership, service as a CDA advisor or mentor, attendance at a professional conference or event, conference presentation, advocacy and leadership activities
Child Care Teacher III	Associate degree in early childhood or child development OR related associate degree with 4 college courses in early childhood or child development OR bachelor degree in early childhood or child development OR related bachelor degree with 3 college courses in early childhood or child development	minimum 2 years	Membership in an early childhood professional organization and service to the profession such as: committee or board membership, service as a CDA advisor or mentor, attendance at a professional conference or event, conference presentation, advocacy and leadership activities
Child Care Teacher IV	Bachelor degree in early childhood or child development of which 3 college courses focus on infants and toddlers OR related bachelor degree with 6 early childhood or child development college courses of which 3 focus on infants and toddlers	minimum 2 years	Membership in an early childhood professional organization and service to the profession such as: committee or board membership, service as a CDA advisor or mentor, attendance at a professional conference or event, conference presentation, advocacy and leadership activities
Child Care Master Teacher	Graduate degree in early childhood or child development OR unrelated graduate degree with 4 early childhood or child development college courses	minimum 2 years	Membership in an early childhood professional organization and service to the profession such as: committee or board membership, service as a CDA advisor or mentor, attendance at a professional conference or event, conference presentation, advocacy and leadership activities

D. Qualification for the School Readiness Tax Credit for child care directors and staff.

1. The Department of Social Services shall provide information necessary for the Secretary of the Department of Revenue to determine and/or verify the director and staff levels for earning the credit.

2. Child Care Director Levels

a. Directors who are classified as Director I by LA Pathways are classified as meeting Level I qualifications for purposes of this credit.

b. Directors who are classified as Director II by LA Pathways are classified as meeting Level II qualifications for purposes of this credit.

c. Directors who are classified as Director III by LA Pathways are classified as meeting Level III qualifications for purposes of this credit.

d. Directors who are classified as Director IV by LA Pathways are classified as meeting Level IV qualifications for purposes of this credit.

3. Child Care Staff Levels

a. Staff members who are classified as Child Care Teacher I by LA Pathways are classified as meeting Level I requirements for purposes of this credit.

b. Staff members who are classified as Child Care Teacher II by LA Pathways are classified as meeting Level II requirements for purposes of this credit.

c. Staff members who are classified as Child Care Teacher III by LA Pathways are classified as meeting Level III requirements for purposes of this credit.

d. Staff members who are classified as Child Care Teacher IV or Child Care Master Teacher by LA Pathways are classified as meeting Level IV requirements for purposes of this credit.

AUTHORITY NOTE: Promulgated in accordance with 45 CFR Part 98 and R.S. 36:474 and R.S. 47:6101 et seq.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 34:95 (January 2008), amended LR 34:2412 (November 2008).

Title 67
SOCIAL SERVICES
Part III. Family Support
Subpart 13. Kinship Care Subsidy Program (KCSP)

Chapter 53. Application, Eligibility, and Furnishing Assistance

Subchapter A. Application, Determination of Eligibility, and Furnishing Assistance

§5301. Application

A. All individuals applying for Kinship Care Subsidy Program (KCSP) shall be considered applicants for assistance and shall file a written and signed application form under a penalty of perjury. The date the application form is received by the department shall be considered the date of application. If an application is received after 4:30 p.m. central time, the following workday shall be considered the date of application. If determined eligible, benefits shall be prorated from the date of application. Applicants for KCSP must apply for benefits through Family Independence Temporary Assistance Program (FITAP).

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq., R.S. 36:474, R.S. 46:231.1.B, R.S. 46:237.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 26:351 (February 2000), amended by the Department of Children and Family Services, Economic Stability Section, LR 45:1442 (October 2019).

§5303. Application Time Limit

A. The time limit for disposition of the application is 30 days from the date on which the signed application is received in the local office. The applicant shall have benefits available through Electronic Benefits Transfer (EBT), or be notified that he has been found ineligible for KCSP by the 30th day, unless an unavoidable delay has occurred.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq., R.S. 36:474, R.S. 46:231.1.B, R.S. 46:237.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 26:351 (February 2000).

§5305. Certification Period and Reapplication

A. Certification periods of a set duration will be assigned. In order to continue to receive benefits, the household must timely reapply and be determined eligible. In the month preceding the final month of certification, a notice of expiration will be provided to the household. The notice shall inform the household that failure to timely reapply will result in closure and include the right to a fair hearing. Also, if during the reapplication process, a change is reported which results in a determination of ineligibility or a reduction in benefits, this change will be made effective the following month.

B. The department will require an official reapplication for benefits and prorate benefits from the date of application following a period of ineligibility.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq., R.S. 36:474, R.S. 46:231.1.B, R.S. 46:237.42 U.S.C 608, et seq.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 26:351 (February 2000), amended LR 28:1599 (July 2002), LR 32:264 (February 2006), amended by the Department of Children and Family Services, Economic Stability Section, LR 45:1442 (October 2019).

§5307. Notices of Adverse Actions

A. A notice of adverse action shall be sent at least 13 days prior to taking action to terminate benefits. In some circumstances advance notice is not required. A concurrent notice shall be sent to the client at the time of action in the following situations:

1. the agency has factual information confirming the death of the KCSP payee;

2. the client signs a statement requesting reduction or closure and waiving the right to advance notice;

3. the client's whereabouts are unknown and agency mail directed to the client has been returned by the post office indicating no known forwarding address;

4. a client has been certified in another state and that fact has been established;

5. a child is removed from the home as a result of a judicial determination, or is voluntarily placed in foster care by his legal guardian;

6. the client has been admitted or committed to an institution;

7. the client has been placed in a skilled or intermediate nursing care facility or long-term hospitalization;

8. the agency disqualifies a household member because of an intentional program violation and benefits are terminated because of the disqualification;

9. the worker reduces or ends benefits at the end of a normal period of certification when the client timely reapplies;

10. the case is closed due to the amount of child support collected through child support enforcement services;

11. the agency receives a written report signed by the head of household or other responsible household member which provides sufficient information for the agency to determine the client's ineligibility;

12. benefits are reduced or terminated effective the month following the simplified report month;

13. mass changes;

14. effective May 1, 2006, the child has been certified for supplemental security income and that fact has been established;

15. the child has been certified for foster care payments and that fact has been established.

AUTHORITY NOTE: Promulgated in accordance with 42 USC 601 et seq., R.S. 36:474, R.S. 46:231.1(B), R.S. 46:237, and Act 16, 2005 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 26:351 (February 2000), amended LR 28:2565 (December 2002), LR 32:1913 (October 2006), amended by the Department of Children and Family Services, Economic Stability Section, LR 44:445 (March 2018).

§5309. Domestic Violence

A. The secretary shall waive, for as long as necessary, pursuant to a determination of good cause, any public assistance program requirement that will create obstacles for a victim of domestic violence to escape a domestic violence situation, including but not limited to, work, training, or educational requirements; limitations on TANF assistance to noncitizens; child support or paternity establishment cooperation requirements; residency requirements; and any other program requirements which will create obstacles for such victim to escape violence or penalize that victim for past, present, and potential for abuse.

B. Any information obtained pursuant to this Section regarding a victim of domestic violence shall be used solely for the purposes provided for in this Section or for referral to supportive services and shall not be released to any third party, including a governmental agency, unless such agency is authorized to obtain such information by another provision of law.

C. Individuals who allege domestic violence should submit any available evidence to substantiate their claim. If the individual alleging to be a victim of domestic violence is unable to provide documentation to substantiate the claim, the client's statement may be accepted unless there is a reasonable basis to doubt the statement. The worker must continue to attempt to secure the documentation as it becomes available. The documentation may include, but is not limited to:

1. police, government agency or court records;

2. documentation from a shelter worker, legal professional, member of the clergy, medical professional, or other professional from whom the individual has sought assistance in dealing with domestic violence;

3. other corroborating evidence, such as a statement from any other individual with knowledge of the circumstances which provide the basis for the claim;

4. physical evidence of domestic violence; or

5. other evidence which supports the statement.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq., R.S. 36:474, R.S. 46:231.1.B, R.S. 46:237.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 26:352 (February 2000).

Subchapter B. Conditions of Eligibility

§5321. Age Limit

A. Effective May 1, 2006, a dependent child must be under 18 years of age.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq., R.S. 36:474, R.S. 46:231.1.B and R.S. 46:237; Act 58, 2003 Reg. Session, Act 16, 2005 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 26:352 (February 2000), amended LR 30:496 (March 2004), LR 31:103 (January 2005), LR 32:1913 (October 2006).

§5323. Citizenship

A. Each KCSP recipient must be a United States Citizen, a non-citizen national, or a qualified alien. A non-citizen national is a person born in an outlying possession of the United States (American Samoa or Swain's Island) on or after the date the U.S. acquired the possession, or a person whose parents are U.S. non-citizen nationals. A qualified alien is:

1. an alien who is lawfully admitted for permanent residence under the Immigration and Nationality Act;

2. an alien who is granted asylum under Section 208 of such Act;

3. a refugee who is admitted to the United States under Section 207 of such Act;

4. an alien who is paroled into the United States under Section 212(d)(5) of such Act for a period of at least one year;

5. an alien whose deportation is withheld under §243(h) of such Act [as in effect immediately before the effective date (April 1, 1997) of §307 of Division C of Public Law 104-208] or §241(b)(3) of such Act [as amended by Section 305(a) of Division C of Public Law 104-208];

6. an alien who is granted conditional entry pursuant to §203(a)(7) of such Act as in effect prior to April 1, 1980;

7. an alien who is a *Cuban* or *Haitian* entrant, as defined in §501(e) of the Refugee Education Assistance Act of 1980;

8. an alien who has been battered or subjected to extreme cruelty in the United States by a spouse or parent, or by a member of the spouse's or parent's family residing in the same household as the alien if the spouse or parent consented to, or acquiesced in, such battery or cruelty. The individual who has been battered or subjected to extreme cruelty must no longer reside in the same household with the individual who committed the battery or cruelty. The agency must also determine that a substantial connection exists between such battery or cruelty and the need for the benefits to be provided. The alien must have been approved or have a petition pending which contains evidence sufficient to establish:

a. the status as a spouse or a child of a United States citizen pursuant to clause (ii), (iii), or (iv) of §204(a)(1)(A) of the Immigration and Nationality Act (INA); or

b. the classification pursuant to clause (ii) or (iii) of section 204(a)(1)(B) of the INA; or

c. cancellation of removal under Section 1229b of the INA (as in effect prior to April 1, 1997); or

d. the status as a spouse or child of a United States citizen pursuant to clause (i) of §204(a)(1)(A) of the INA, or classification pursuant to clause (i) of section 204(a)(1)(B) of the INA; or

e. cancellation of removal pursuant to Section 1229b(b)(2) of the INA;

9. an alien child of a battered parent or the alien parent of a battered child as described in §1223A.8;

10. an alien who is a victim of a severe form of trafficking in persons, or effective May 1, 2006, an eligible relative of a victim of a severe form of trafficking in persons; or

11. an Iraqi or Afghan immigrant who has been granted Special Immigrant Visa (SIV) status.

B. Time-Limited Benefits. A qualified alien who enters the United States on or after August 22, 1996 is ineligible for five years from the date of entry into the United States unless:

1. the alien is admitted to the United States as a refugee under Section 207 of the Immigration and Nationality Act;

2. the alien is granted asylum under Section 208 of such Act;

3. the alien's deportation is withheld under §243(h) of such Act [as in effect immediately before the effective date (April 1, 1997) of §307 of Division C of Public Law 104-208] or §241(b)(3) of such Act [as amended by §305(a) of Division C of Public Law 104-208];

4. the alien is a *Cuban* or *Haitian* entrant as defined in Section 501(e) of the Refugee Education Assistance Act of 1980;

5. the alien is an Amerasian immigrant admitted pursuant to Section 584 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act of 1988 as amended;

6. the alien is lawfully residing in the United States and is a *veteran* (as defined in Sections 101, 1101, or 1301, or as described in §107 of Title 38, *United States Code*) who is honorably discharged for reasons other than alienage and who fulfills the minimum active-duty service requirements of §5303A(d) of Title 38, *United States Code*, his spouse or the unremarried surviving spouse if the marriage fulfills the requirements of §1304 of Title 38, *United States Code*, and unmarried dependent children; or

7. the alien is lawfully residing in the United States and is on active duty (other than for training) in the Armed Forces and his spouse or the unremarried surviving spouse if the marriage fulfills the requirements of §1304 of Title 38, *United States Code* and unmarried dependent children;

8. the alien is a victim of a severe form of trafficking in persons.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq., R.S. 36:474, R.S. 46:231.1.B, R.S. 46:237, P.L. 106-386, Act 16, 2005 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 26:352 (February 2000), amended LR 27:2264 (December 2001), LR 28:1600 (July 2002), LR 32:1913 (October 2006), amended by the Department of Children and Family Services, Economic Stability Section, LR 45:1442 (October 2019).

§5325. Enumeration

A. Each applicant for or recipient of KCSP is required to furnish a Social Security number or to apply for a Social Security number if such a number has not been issued or is not known.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq., R.S. 36:474 and R.S. 46:231.1.B, R.S. 46:237.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 26:353 (February 2000).

§5327. Living in the Home of a Qualified Caretaker Relative

A. A child must reside in the home of a qualified caretaker relative who is responsible for the day-to-day care of the child and who has legal custody or guardianship of the child. The child's parents may not reside in the home. Legal custody or guardianship must be obtained by the caretaker relative within one year of certification of benefits. Failure to obtain such custody within 12 months of certification will result in cessation of benefits. Benefits will not be denied when the qualified caretaker relative or the child is temporarily out of the home for a period not to exceed 180 days. Good cause must be established for a temporary absence of more than 45 days. The following relatives are qualified caretaker relatives:

1. grandfather or grandmother (extends to great-great-great);

2. step-grandfather or step-grandmother (extends to great-great-great);

3. brother or sister (including half-brother and half-sister);

4. uncle or aunt (extends to great-great);

5. first cousins (including first cousins once removed);

6. nephew or niece (extends to great-great);

7. stepbrother or stepsister.

These may be either biological or adoptive relatives.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq., R.S. 36:474 and R.S. 46:231.1.B, R.S. 46:237,42 U.S.C. 608.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 26:353 (February 2000), amended LR 27:2264 (December 2001), LR 32:264 (February 2006).

§5329. Income

A. Income is any gain or benefit to a household that has monetary value and is not considered a resource. Count all income in determining pretest eligibility except income from:

1. adoption assistance;

2. earned income of a child who is in school and working toward a high school diploma, GED, or special education certificate;

3. disaster payments;

4. Domestic Volunteer Service Act;

5. Earned Income Credits (EIC);

6. education assistance;

7. energy assistance;

8. foster care payments;

9. monetary gifts up to $30 per calendar quarter;

10. Agent Orange Settlement payments;

11. HUD payments or subsidies other than those paid as wages or stipends under the HUD Family Investment Centers Program;

12. income in-kind;

13. Indian and Native Claims and Lands;

14. irregular and unpredictable sources;

15. lump sum payments;

16. nutrition programs;

17. job training income that is not earned;

18. relocation assistance;

19. loans;

20. Wartime Relocation of Civilians Payments;

21. Developmental Disability Payments;

22. Delta Service Corps post-service benefits paid to participants upon completion of the term of service if the benefits are used as intended for higher education, repayment of a student loan, or for closing costs or down payment on a home;

23. Americorps VISTA payments to participants (unless the value of all such payments, adjusted to reflect the number of hours such volunteers are serving, is equivalent to or greater than the minimum wage);

24. Radiation Exposure Compensation Payments;

25. payment to victims of Nazi persecution;

26. restricted income received for a person not in the income unit. Restricted income is income which is designated specifically for a person's use by federal statute or court order and may include RSDI, VA benefits and court ordered-support payments; or

27. Crime victim compensation program payments to an applicant/recipient whose assistance is necessary, in full or in part, because of the commission of a crime against the applicant, and to the extent it is sufficient to fully compensate the applicant for losses suffered as a result of the crime;

28. effective October 1, 2004, additional pay received and made available to the household by a member of the United States Armed Forces deployed to a designated combat zone;

29. effective May 1, 2006, Supplemental Security Income (SSI);

30. effective March 1, 2006, dividend income. Exception: Dividends received from a resource-exempt trust fund will not be excluded as income;

31. effective May 1, 2006, Supplemental Security Income (SSI);

32. any payments other than wages received as a result of the Mississippi Canyon Well Incident in the Gulf of Mexico on April 20, 2010; or

33. grant funded research payments.

B. Pretest

1. In order to meet this requirement, the gross countable income of the caretaker relative's KCSP income unit must be less than 150 percent of the federal poverty threshold for the family size.

2. For purposes of this pretest, the caretaker's KCSP income unit is defined to include:

a. the child; and

b. the caretaker relative; and

c. anyone residing in the home for whom the caretaker relative claims financial responsibility.

3. For purposes of this pretest, income is defined as countable income belonging to any member of the KCSP income unit. Exception effective May 1, 2006: Income for children receiving foster care and Supplemental Security Income is not included in the income test.

C. Income after Pretest. The child is determined eligible for KCSP if the child’s monthly countable income is,

effective December 1, 2011, less than $222. If the child's monthly countable income is, effective December 1, 2011, $222 or more, the child is ineligible.

D. Payment Amount. Effective December 1, 2011, payment amount is $222 per month for each eligible child.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq. and 10602(c), R.S. 36:474, R.S. 46:231.1.B, R.S. 46:237, and P.L. 108-447, Act 16, 2005 Reg. Session, 7 CFR 273.2(j).

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 26:353 (February 2000), amended LR 26:2832 (December 2000), LR 31:2958 (November 2005), LR 32:1617 (September 2006), LR 32:1913 (October 2006), repromulgated LR 32:2098 (November 2006), amended by the Department of Children and Family Services, Economic Stability and Self-Sufficiency Section, LR 36:2537 (November 2010), LR 38:1390 (June 2012), amended by the Department of Children and Family Services, Economic Stability Section, LR 45:1443 (October 2019).

§5331. Immunization

A. Failure to follow the schedule of immunizations as promulgated by the Louisiana Office of Public Health for any child under 18 years of age, without good cause, shall result in the child's ineligibility for the KCSP subsidy until the child has received the required immunizations, or in the case of an immunization that requires a series of injections, has begun to receive the injections. No person is required to comply with this provision if that person or his/her qualified caretaker relative submits a written statement from a physician stating that the immunization procedure is contraindicated for medical reasons, or if the person or his/her qualified caretaker relative objects to the procedure on religious grounds.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq., R.S. 36:474, R.S. 46:231.1.B, R.S. 46:237.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 26:354 (February 2000).

§5333. Residency

A. KCSP recipients must reside in Louisiana with intent to remain.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq., R.S. 36:474, R.S. 46:231.1.B, R.S. 46:237.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 26:354 (February 2000).

§5337. Assignment of Support Rights and Cooperation with Support Enforcement Services

A. Assignment of Support Rights

1. Each applicant for, or recipient of, KCSP is required to assign to the Louisiana Department of Social Services, Office of Family Support, any accrued rights to support for any other person that such applicant or recipient may have, including such rights in his own behalf or in behalf of any other family member for whom the applicant or recipient is applying for or receiving.

2. By accepting KCSP for, or on behalf of, a child or children, the applicant or recipient shall be deemed to have made an assignment to the department of any and all right, title, and interest in any support obligation and arrearage owed to, or for, such child or children or caretaker up to the amount of public assistance money paid for, or on, behalf of such child or children or caretaker for such term of time as such public assistance monies are paid; provided, however, that the department may thereafter continue to collect any outstanding debt created by such assignment which has not been paid by the responsible person. The applicant or recipient shall also be deemed, without the necessity of signing any document, to have appointed the Support Enforcement Services Program administrator as his or her true and lawful attorney-in-fact to act in his or her name, place, and stead to perform the specific act of endorsing any and all drafts, checks, money orders or other negotiable instruments representing support payments which are received on behalf of such child or children or caretaker as reimbursement for the public assistance monies paid to such applicant or recipient.

B. Cooperation with Support Enforcement Services

1. Each applicant for, or recipient of, KCSP is required to cooperate in identifying and locating the parent of a child with respect to whom aid is claimed, establishing the paternity of a child born out of wedlock with respect to whom aid is claimed, obtaining support payments for such applicant or recipient and for a child with respect to whom aid is claimed, and obtaining any other payment or property due such applicant or recipient unless good cause is established.

2. Good cause exists when:

a. the client's cooperation with support enforcement services is reasonably anticipated to result in physical or emotional harm to the child or caretaker relative which reduces his capacity to care for the child adequately;

b. the child was conceived as a result of incest or rape;

c. legal proceedings for adoption are pending before a court; or

d. the client is being assisted by a licensed or private social agency to resolve the issue of whether to keep the child or relinquish him for adoption. The issue must not have been under discussion more than three months.

3. Failure to cooperate in establishing paternity or obtaining child support will result in denial or termination of cash assistance benefits.

4. Failure to cooperate includes, but is not limited to, the following instances where good reason for failing to cooperate has not been established by the IV-D office:

a. failure to keep two consecutive appointments;

b. failure or refusal to cooperate at an interview;

c. failure to appear for, or cooperate during a court date or genetic testing.

5. The payee or recipient who has failed to cooperate will be notified in writing of the sanctioning. The payee or recipient's desire or intention to cooperate will not preclude case closure.

C. In any case in which child support payments are collected for a recipient of KCSP with respect to whom an assignment is in effect, such amount collected will be counted as income to determine eligibility.

D. Written notice will be provided to the Child Support Enforcement Agency of all relevant information prescribed by that agency within two days of the furnishing of KCSP.

E. Louisiana must have in effect a plan approved under Part D of Title IV of the Social Security Act and operate a child support program in conformity with such plan.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq., R.S. 36:474, R.S. 46:231.1.B, R.S. 46:237.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 26:354 (February 2000).

§5339. Parenting Skills Education

A. As a condition of eligibility for KCSP benefits, effective May 1, 2006, any child under age 18 who is pregnant or the parent of a child under the age of one must attend a parenting skills education program as outlined in LAC 67:III.Chapter 57, §5711.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq., R.S. 36:474, R.S. 46:231.1.B, R.S. 46:237, Act 58, 2003 Reg. Session, Act 16, 2005 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 26:355 (February 2000), amended LR 30:496 (March 2004), LR 32:1913 (October 2006).

§5343. Fleeing Felons and Probation/Parole Violators

A. No cash assistance shall be provided to a person fleeing to avoid prosecution, or custody or confinement after conviction, under the laws of the place from which the individual flees, for a crime, or an attempt to commit a crime, which is a felony under the laws of the state from which the individual flees. This does not apply with respect to the conduct of an individual, for any month beginning after the President of the United States grants a pardon with respect to the conduct.

B. No cash assistance shall be provided to a person violating a condition of probation or parole imposed under federal or state law. This does not apply with respect to the conduct of an individual, for any month beginning after the President of the United States grants a pardon with respect to the conduct.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq., R.S. 36:474, R.S. 46:231.1.B, R.S. 46:237.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 26:355 (February 2000).

§5347. Reporting Changes

A. Effective February 1, 2004, a KCSP household that is not included in a SNAP Simplified Reporting household shall report any change that affects eligibility. The specified dollar amounts of change for earned or unearned income that trigger a report shall be adjusted annually in accordance with 7 CFR §273.12(a)(1)(i) (D). Changes shall be reported within 10 days of the knowledge of the change.

B. A KCSP household that is included in a SNAP Simplified Reporting household is subject to the simplified household reporting requirements in accordance with LAC 67:III.2013 and must report if the only eligible child moves out of the home or if any eligible child is certified for Foster Care.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq., R.S. 36:474, R.S. 46:231 et seq., 7 CFR Part 273, 42 U.S.C., et seq.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 28:2565 (December 2002), amended LR 30:1487 (July 2004), LR 32:264 (February 2006), amended by the Department of Children and Family Services, Economic Stability and Self-Sufficiency Section, LR 36:2537 (November 2010), amended by the Department of Children and Family Services, Economic Stability Section, LR 45:1443 (October 2019).

§5349. Foster Care Payments

A. A child who receives federal or state foster care payments is not eligible to receive KCSP benefits.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 608, et seq.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 32:264 (February 2006).

§5351. Use of KCSP Benefits

A. KCSP benefits shall not be used in any electronic benefit transfer transaction in:

1. any liquor store;

2. any gambling casino or gaming establishment;

3. any retail establishment that provides adult-oriented entertainment in which performers disrobe or perform in an unclothed state for entertainment purposes, any adult bookstores, any adult paraphernalia store, or any sexually oriented business;

4. any tattoo, piercing, or commercial body art facility;

5. any nail salon;

6. any jewelry store;

7. any amusement ride, amusement attraction, or video arcade;

8. any bail bonds company;

9. any night club, bar, tavern, or saloon;

10. any cruise ship;

11. any psychic business; or

12. any establishment where persons under age 18 are not permitted.

B. KCSP benefits shall not be used in any electronic benefit transfer transaction at any retailer for the purchase of:

1. an alcoholic beverage as defined in R.S. 14.93.10(3);

2. a tobacco product as defined in R.S. 14.91.6(B);

3. a lottery ticket as defined in R.S. 47:9002(2);

or

4. jewelry.

C. For purposes of this Section, the following definitions and provisions apply.

1. The term *liquor store* is defined as any retail establishment that sells exclusively or primarily intoxicating liquor. It does not include a grocery store that sells both intoxicating liquor and groceries, including staple foods.

2. The terms *gambling casino* and *gaming establishment* do not include a grocery store that sells groceries, including staple foods, and that also offers, or is located within the same building or complex as casino, gambling, or gaming activities, or any other establishment that offers casino, gambling, or gaming activities incidental to the principal purpose of the business.

3. The term *electronic benefit transfer transaction* means the use of a credit or debit card service, automated teller machine, point-of-sale terminal, or access to an online system for the withdrawal of funds or the processing of a payment for merchandise or a service.

4. The term *commercial body art facility* means any location, place, area, or business whether permanent or temporary, which provides consumers access to personal services workers who for remuneration perform any of the following procedures:

a. tattooing or the insertion of pigment under the surface of the skin of a human being, by pricking with a needle or otherwise, to produce an indelible mark or figure visible under the skin;

b. body piercing or the creation of an opening in the body of a human being for the purpose of inserting jewelry or other decoration; but does not for the purposes of this Part, include piercing an ear with a disposable, single use stud or solid needle that is applied using a mechanical device to force the needle or stud through the ear; or

c. the application of permanent cosmetics or pigments under the skin of a human being for the purpose of permanently changing the color or other appearance of the skin, including but not limited to permanent eyeliner, eye shadow, or lip color.

5. *Adult paraphernalia store* is defined as an establishment having a substantial or significant portion of its stock, including, but not limited to, clothing, objects, tools, or toys which are distinguished or characterized by their association with sexual activity, including sexual conduct or sexual excitement.

6. *Sexually oriented business* is defined as any commercial enterprise that has as its primary business the offering of a service or the sale, rent, or exhibit of devices or any other items intended to provide sexual stimulation or sexual gratification to the customer.

7. *Nail salon* is defined as a commercial establishment that provides nail services of any kind including, but not limited to trimming, filing, decorating, shaping, sculpting, or in any way caring for the nails and skin of another person's hands or feet together with massaging the hands, arms, legs, and feet.

8. *Jewelry* is defined as consisting of precious stones and/or precious metals worn as adornment or apparel. This includes costume *jewelry*.

9. *Amusement attraction* is defined as any building or structure which provides amusement, pleasure, thrills, or excitement. This includes movie theaters and video arcades. *Amusement attraction* does not include any enterprise principally devoted to the exhibition of products of agriculture, industry, education, science, religion, or the arts.

10. *Amusement ride* is defined as any mechanized device or combination of devices which carries passengers along, around, or over a fixed or restricted course for the purpose of giving its passengers amusement, pleasure, thrills, or excitement. This includes inflatables.

11. *Bail* is defined as security given by a person to assure his appearance, or a third-party's, before the proper court whenever required.

12. *Bar* is defined as business that holds a class A-general retail permit and the primary purpose of such business is to serve alcoholic beverages for consumption by guests on the premises and in which the serving of food is only incidental to the consumption of those beverages, including but not limited to, taverns, nightclubs, cocktail lounges, and cabarets, as further defined by R.S. 1300:253.

13. *Cruise ship* is defined as any commercial ship used for the domestic or international carriage of passengers.

14. *Psychic* is defined as any person or establishment engaged in the occupation of occult science including a fortune-teller, palmist, astrologist, numerologist, clairvoyant, craniologist, phrenologist, card reader, spiritual reader, tea leaf reader, prophet, *psychic* or advisor or who in any other manner claims or pretends to tell fortunes or claims or pretends to disclose mental faculties of individuals for any form of compensation.

D. The KCSP case of a KCSP recipient who is determined to have violated the provisions of this Section shall be closed for the following time periods:

1. 12 months for the first offense;

2. 24 months for the second offense; and

3. permanently for the third offense.

AUTHORITY NOTE: Promulgated in accordance with P.L. 112-96.

HISTORICAL NOTE: Promulgated by the Department of Children and Family Services, Economic Stability Section, LR 39:3061 (November 2013), amended LR 40:1521 (August 2014).

Subchapter C. Recovery

§5383. Recovery of Overpayments

A. All KCSP overpayments shall be subject to collection either by recoupment or recovery with the exception of inadvertent household error claims and administrative error claims of less than $125 for nonparticipating households.

B. Action will be taken to recover all claims for participating households and claims which are determined to be the result of intentional program violation.

AUTHORITY NOTE: Promulgated in accordance with P.L. 104-193.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 27:429 (March 2001), amended LR: 34:2678 (December 2008), amended by the Department for Children and Family Services, Economic Stability Section, LR 39:2193 (August 2013), amended by the Department of Children and Family Services, Economic Stability Section, LR 45:1443 (October 2019).

§5385. IV-D Recovery of Support Payments

A. When assigned child support payments are received and retained by the KCSP applicant/recipient, responsibility is placed with the IV-D agency (Child Support Enforcement Services) to recover all such payments. The only exception is a direct payment retained by the recipient during the period when the sanction for failure to cooperate is in effect.

B. In providing for this policy the IV-D staff must:

1. document that the recipient has received and retained direct payments, and the amounts;

2. provide a written notice of intent to recover the payments to the recipient including:

a. an explanation of the recipient's responsibility to cooperate by turning over direct payments as a condition of eligibility for KCSP, and a sanction for failure to cooperate as provided at 45 CFR 232.12(d);

b. a detailed list of the direct payments as documented by IV-D, including dates and amounts of payments and description of documentary evidence possessed by IV-D;

c. a proposal for a repayment agreement related to the recipient's income and resources including the KCSP grant and the total amount of retained support;

d. providing the opportunity for the recipient to have an informal meeting to clarify his responsibilities and to resolve any differences regarding repayment.

C. The IV-D Agency (Child Support Enforcement Services) must refer the case to IV-A (KCSP) with evidence of failure to cooperate if the recipient refuses to sign a repayment agreement or signs an agreement but subsequently fails to make a payment. IV-D must also notify IV-A if a recipient later consents to an agreement or if the recipient who defaulted on the agreement begins making regularly scheduled payments.

D. To recover amount due from any period of default, the IV-D Agency (Child Support Enforcement Services) must extend the duration of the agreement.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq., R.S. 36:474, R.S. 46:231.1.B.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 26:356 (February 2000).

Subchapter D. Special Initiatives

§5390. Energy Assistance

A. Based on the availability of funding and a determination of need by OFS, all households receiving a KCSP grant may also be eligible to receive an energy assistance grant effective August 2001 to apply towards the cost of utility service. OFS will establish a specific date of eligibility in order to determine when households will receive a grant, and only those households certified as of that date will be eligible for energy assistance.

B. The payment process will be administered by an outside entity through a contractual agreement. Recipients will be required to provide verification of identity as well as proof of residency at the utility service address. The energy assistance payment will be paid directly to the recipient's utility company or provider.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq.; R.S. 36:474 and 46:231; and Act 12, 2001 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 28:103 (January 2002).

Title 67
SOCIAL SERVICES
Part III. Family Support
Subpart 15. Temporary Assistance for Needy Families (TANF) Initiatives

Chapter 55. TANF Initiatives

§5501. Introduction to the TANF Initiatives

A. The programs known collectively as the TANF Initiatives provide benefits in the form of services to needy families, defined as families who have earned income at or below 200 percent of the federal poverty level, or a family in which any member receives a Family Independence Temporary Assistance Program (FITAP) grant, Kinship Care Subsidy Program (KCSP) grant, Supplemental Nutrition Assistance Program (SNAP) benefits, Child Care Assistance Program (CCAP) services, Title IV-E, Medicaid, Louisiana Children's Health Insurance Program (LaCHIP) benefits, Supplemental Security Income (SSI), or free or reduced school lunch.

B. Not all TANF Initiatives require a family to be "needy" as defined above in order to receive services. There are initiatives that target children, parents, or caretaker relatives of minor children and require only that the person be in need of the services provided by the initiative.

C. The goals of the TANF Initiatives are:

1. to provide assistance to needy families so that children may be cared for in their own homes or in the homes of relatives;

2. to end dependence of needy parents on government benefits by promoting job preparation, work, and marriage;

3. to prevent and reduce the incidence of out-of-wedlock pregnancies; and

4. to encourage the formation and maintenance of two-parent families.

D. To the extent that appropriations are available, the secretary may establish and make available to eligible families the TANF Initiatives.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq.; P.L. 104-193.

HISTORICAL NOTE: Promulgated by the Department of Children and Family Services, Economic Stability and Self-Sufficiency Section, LR 36:2537 (November 2010), amended by the Department of Children and Family Services, Division of Programs, Economic Stability and Self-Sufficiency, LR 38:1558 (July 2012).

§5505. Nonpublic School Early Childhood Development Program

A. OFS shall enter into a Memorandum of Understanding with the Governor's Office, Office of Community Programs, to provide early childhood education to certain four-year-olds in non-public schools.

B. These services meet TANF goal 3, to prevent and reduce the incidence of out-of-wedlock pregnancies and TANF goal 4, to encourage the formation and maintenance of two-parent families by placing children in learning environments at the pre-school level to foster an interest in learning, increase literacy levels, and increase the likelihood of developing responsible behavior.

C. Eligibility for services is limited to families in which the child is one year younger than the eligible age for public school kindergarten and who have earned income at or below 200 percent of poverty level. A needy family consists of minor children residing with custodial parents, or caretaker relatives of minor children.

D. Services are considered non-assistance by the agency.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq.; R.S. 46:231 and R.S. 36:474; Act 12, 2001 Reg. Session, Act 18, 2007 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 28:350 (February 2002), amended LR 29:715 (May 2003), LR 30:501 (March 2004), LR 34:693 (April 2008).

§5509. Family Violence Prevention and Intervention Program

A. The Department of Children and Family Services shall enter into Memoranda of Understanding or contracts to provide services for victims of domestic violence and their children, including rural outreach and community collaboration training for the purpose of educating attendees about domestic violence and the available services provided by the Department of Children and Family Services including but not limited to TANF, Supplemental Nutrition Assistance Program, Child Care, and Employment Training. Additionally, these services will include education and training addressing the problem of statutory rape. These programs are designed to not only reach the public, but also law enforcement officials, educators, relevant counseling services, and males 18 and older.

B. These services meet TANF goal 4, to encourage the formation and maintenance of two-parent families.

C. Eligibility for services is not limited to needy families. Eligibility for services is limited to children and/or their parents or caretaker relatives who are victims of domestic violence. A family consists of a minor child residing with a custodial parent or caretaker relative of the minor child, and non-custodial parents.

D. Services are considered non-assistance by the agency.

E. Direct services that provide for basic needs and are provided in response to an episode of need or a specific crisis situation and are non-recurrent, such as but not limited to food, clothing, and shelter assistance, will not be provided beyond four months.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq.; R.S. 46:231 and R.S. 36:474; HB 1 2006 Reg. Session, Act 18, 2007 Reg. Session, Act 10, 2009 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 32:2099 (November 2006), amended LR 33:2205 (October 2007), LR 34:693 (April 2008), LR 34:2415 (November 2008), Department of Children and Family Services, Economic Stability and Self-Sufficiency Section, LR 36:2236 (October 2010).

§5511. Micro-Enterprise Development Program

A. Effective May 1, 2006, the Office of Family Support shall enter into a Memorandum of Understanding with the Department of Economic Development to provide assistance to low-income families who wish to start their own businesses.

B. These services meet TANF goal 2, to end the dependence of needy parents on government benefits by promoting job preparation, work, and marriage. This goal will be accomplished by providing assistance to low-income families through the development of comprehensive micro-enterprise development opportunities as a strategy for moving parents into self-sufficiency.

C. Eligibility for services is limited to needy families, that is, a family in which any member receives a Family Independence Temporary Assistance Program (FITAP) grant, Kinship Care Subsidy Program (KCSP) grant, Food Stamps, Child Care Assistance Program (CCAP) benefits, Medicaid, Louisiana Children's Health Insurance Program (LaCHIP), Supplemental Security Income (SSI), Free or Reduced School Lunch, or who has earned income at or below 200 percent of the federal poverty level. A family consists of a minor child residing with custodial parents or caretaker relatives. Only the parent or caretaker relative within the needy family is eligible to participate.

D. Services are considered non-assistance by the agency.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq.; R.S. 46:231 and R.S. 36:474; Act 16, 2005 Reg. Session, Act 18, 2007 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 32:1914 (October 2006), LR 34:693 (April 2008).

§5531. After-School Tutorial and Summer Enrichment Programs

A. OFS shall enter into a Memorandum of Understanding with the Department of Education to provide after-school tutorial services and, effective June 1, 2002, summer enrichment programs.

B. These services meet TANF goal 3, to prevent and reduce the incidence of out-of-wedlock pregnancies by providing intervention and improved life prospects for students who show evidence of academic underperformance, dropping out, or engaging in negative behaviors that can lead to dependency and out-of-wedlock pregnancies, imprisonment, etc.

C. Eligibility for services is not limited to needy families. A family consists of a minor child residing with a custodial parent or caretaker relative of the minor child, and non-custodial parents.

D. Services are considered non-assistance by the agency.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq.; R.S. 36:474 and 46:231; Act 12, 2001 Reg. Session, and Act 13, 2002 Reg. Session, Act 18, 2007 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 28:352 (February 2002), amended LR 28:2373 (November 2002), LR 34:694 (April 2008).

§5539. Truancy Assessment and Service Centers

A. Effective October 1, 2005, OFS shall enter into Memoranda of Understanding or contracts for Truancy Assessment and Service Centers designed to identify, assess, and provide counseling to children in kindergarten through sixth grade and family members to assure regular school attendance and improved academic and behavioral outcomes.

B. These services meet TANF goal 3, to prevent and reduce the incidence of out-of-wedlock pregnancies by providing counseling to children and family members designed to assure regular school attendance and improved academic and behavioral outcomes.

C. Eligibility for services is not limited to needy families. A family consists of a minor child residing with a custodial parent or caretaker relative of the minor child, and non-custodial parents.

D. Services are considered non-assistance by the agency.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq.; R.S. 46:231 and R.S. 36:474; Act 16, 2005 Reg. Session, Act 18, 2007 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 32:264 (February 2006), amended LR 34:694 (April 2008).

§5541. Court-Appointed Special Advocates

A. The department shall enter into an agreement with the Supreme Court of Louisiana to provide services to needy children identified as abused or neglected who are at risk of being placed in foster care or, are already in foster care. Community advocates provide information gathering and reporting, determination of and advocacy for the children's best interests, and case monitoring to provide for the safe and stable maintenance of the children in their own homes or the return of children to their own homes or the homes of a relative.

B. The services meet TANF goal 1, to provide assistance to needy families so that children may be cared for in their own homes or in the homes of relatives by ensuring that the time children spend in foster care is minimized, and TANF goal three, to prevent and reduce the incidence of out-of-wedlock pregnancies by providing the child with support

and guidance and with encouragement and empowerment to be successful in becoming a responsible decision maker.

C. Eligibility for services is limited to needy families, that is, one in which any member receives a Family Independence Temporary Assistance Program (FITAP) grant, Kinship Care Subsidy Program (KCSP) grant, Supplemental Nutritional Assistance Program (SNAP) benefits, Child Care Assistance Program (CCAP) services, title IV-E, Medicaid, Louisiana Children's Health Insurance Program (LaCHIP) benefits, supplemental security income (SSI), free or reduced school lunch, or who has earned income at or below 200 percent of the federal poverty level. A family consists of minor children residing with custodial parents, or caretaker relatives of minor children.

D. Services are considered non-assistance by the department.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq., R.S. 46:231 and R.S. 36:474, Act 12, 2001 Reg. Session; Act 1, 2004 Reg. Session, and Act 18, 2007 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 28:871 (April 2002), amended LR 31:485 (February 2005), LR 34:694 (April 2008), amended by the Department of Children and Family Services, Economic Stability Section, LR 41:914 (May 2015).

§5543. Drug Courts Program

A. OFS shall enter into a Memorandum of Understanding with the Supreme Court of Louisiana to provide services to drug court clients that may include non-medical treatment, assessment, counseling, education, and training. Eligible services shall not include drug court administrative costs.

B. These services meet TANF goal 3, to prevent and reduce the incidence of out-of-wedlock pregnancies and TANF goal 4, to encourage the formation and maintenance of two-parent families by providing assessment, counseling, education, training, non-medical treatment, etc.

C. Eligibility for services is limited to children and to the parents or caretaker relatives of minor children. A family consists of a minor child residing with a custodial parent or caretaker relative of the minor child, and non-custodial parents.

D. Services are considered non-assistance by the agency.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq.; R.S. 46:231 and R.S. 36:474; Act 12, 2001 Reg. Session, Act 18, 2007 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 28:353 (February 2002), amended LR 34:694 (April 2008).

§5545. Remediation and Tutoring Programs

A. OFS shall enter into a Memorandum of Understanding with the Department of Education to establish programs designed to increase the likelihood of a student scoring above the "unsatisfactory" achievement level on the Graduate Exit Exam and the LEAP 21 exam and include:

1. Graduate Exit Exam Summer Remediation—designed to provide additional remedial instruction to targeted students, that is, students who scored "unsatisfactory" on the English language arts and/or mathematics components of the Graduate Exit Exam;

2. Louisiana Education Assessment Program (LEAP) 21 Summer Remediation—designed to provide additional remedial instruction to targeted students, that is, fourth and eighth grade students who did not take the spring LEAP 21 test and fourth and eighth grade students who scored "unsatisfactory" on the English language arts and/or mathematics components of the LEAP 21; and

3. Louisiana Education Assessment Program (LEAP) 21 Tutoring—designed to provide intense early intervention and remedial instruction to targeted students in an effort to increase the likelihood of them scoring above the "unsatisfactory" level on the LEAP 21. The targeted group includes fourth and eighth grade students who have been retained because of their having scored at the "unsatisfactory" level on the English language arts and/or mathematics components of the LEAP 21 tests, and fourth and eighth grade students whose third and seventh grade Iowa test scores were below the thirtieth percentile and are considered to be at risk of scoring at the "unsatisfactory" level on the English language arts and/or mathematics components of the LEAP 21 tests.

B. These services meet TANF goal 3, to prevent and reduce the incidence of out-of-wedlock pregnancies by encouraging youths to remain in school, reducing their risk of engaging in negative behavior and increasing opportunities for families to become self-sufficient through education and training.

C. Eligibility for services is limited to families which include a minor child living with a custodial parent or an adult caretaker relative. A family in which any member receives a Family Independence Temporary Assistance Program (FITAP) grant, Kinship Care Subsidy Program (KCSP) grant, Food Stamps, Child Care Assistance Program (CCAP) benefits, Medicaid, Louisiana Children's Health Insurance Program (LaCHIP), Supplemental Security Income (SSI), or Free or Reduced School Lunch is eligible.

D. Services are considered non-assistance by the agency.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq.; R.S. 46:231 and R.S. 36:474; Act 12, 2001 Reg. Session, Act 18, 2007 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 28:353 (February 2002), amended LR 31:485 (February 2005), LR 34:695 (April 2008).

§5549. OCS Child Welfare Programs

A. OFS shall enter into a Memorandum of Understanding with the Office of Community Services (OCS), the state child welfare agency, for collaboration in identifying and serving needy families where one or more minor children living in the home are at risk of abuse or neglect. The methods of collaboration include:

1. *Child Protection Investigation (CPI)*—comprises services to assess the validity of a report of child abuse or neglect involving a minor child or children residing with a custodial parent, an adult caretaker relative, or a legal guardian, to determine whether an emergency exists, and when deemed necessary, to develop a safety plan which may include coordination of services, emergency removal and placement, referral to OCS Family Services or another appropriate agency, short term counseling, parenting guidance, and/or arrangements for concrete services, such as the Preventive Assistance Fund (PAF) and Reunification Assistance Fund (RAF).

2. *Family Services*—comprises services to needy families including a child or children and their parents or adult caretaker relatives, where one or more minor children living in the home are at risk of abuse or neglect, after an allegation of child neglect or abuse has been validated, to assist in preventing the removal of a child from his care giver or, where temporary emergency removal has already occurred in validated abuse and/or neglect cases, to help reunite the family by returning the child. Services are also provided to a family who requests protective services on its own when it is believed that a child in the family would be at risk of abuse or neglect. Elements of Family Services include problem identification, family assessment, risk assessment, safety planning, case planning, counseling, problem resolution, provision of or arrangements for needed services, and/or concrete aid through the Preventive Assistance Fund.

3. *Services to Parents*—comprises services to needy families, where one or more minor children living in the home are at risk of abuse or neglect, after an allegation of child neglect or abuse has been validated, and where temporary emergency removal has already occurred in validated abuse and/or neglect cases. Reasonable efforts to maintain the child or children in the home without further risk of harm will be assessed, the case will be staffed prior to removal, and an order will be obtained from the judiciary. Elements of Service to Parents are comprised of problem identification, family assessment, risk assessment, safety planning, problem resolution, provision of or arrangement for needed services, and/or concrete aid through the Preventive Assistance Fund. In any temporary emergency placement, priority will be given to relatives. These services can be provided when a child is absent from the home for a period of up to 180 days.

B. These services meet TANF goal 1, to provide assistance to needy families so that children may be cared for in their own homes or in the homes of relatives. The TANF grant may be used to provide services in any manner that is reasonably calculated to accomplish the purpose of the initiative.

C. Financial eligibility is limited to needy families which include a minor child living with a custodial parent or an adult caretaker relative. A needy family is a family in which any member receives a Family Independence Temporary Assistance Program (FITAP) grant, Kinship Care Subsidy Program (KCSP) grant, Food Stamps, Child Care Assistance Program (CCAP) benefits, Medicaid, Louisiana Children's Health Insurance Program (LaCHIP), or Supplemental Security Income (SSI).

D. Services are considered non-assistance by the agency.

E. Direct services which provide for basic needs, that may be provided in response to an episode of need or a specific crisis situation and are non-recurrent, such as but not limited to food, clothing, utilities, and shelter assistance, will not be provided beyond four months. Medical expenses and/or services are not eligible TANF funded services.

F. A family consists of a child or children and their parents or adult caretaker relatives within the fifth degree of relationship, where one or more minor children living in the home is at risk of abuse or neglect.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq.; R.S. 46:231 and R.S. 36:474; Act 16, 2005 Reg. Session, Act 18, 2007 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 28:2374 (November 2002), amended LR 31:486 (February 2005), LR 32:2099 (November 2006), LR 34:695 (April 2008), LR 34:1930 (September 2008).

§5551. Community Response Initiative (Effective July 1, 2002)

A. The Office of Family Support, may enter into Memoranda of Understanding or contracts to develop innovative and strategic programming solutions suited to the unique needs of Louisiana's communities.

B. The services provided by the various partners must meet one, or a combination of, the four TANF goals:

1. Goal 1—to provide assistance to needy families so that children may be cared for in their own homes or in the homes of relatives;

2. Goal 2—to end dependence of needy parents on government benefits by promoting job preparation, work, and marriage;

3. Goal 3—to prevent and reduce the incidence of out-of-wedlock pregnancies; and

4. Goal 4—to encourage the formation and maintenance of two-parent families.

C. Eligibility for those services meeting TANF goals 1 and 2 is limited to needy families, that is, a family in which any member receives a Family Independence Temporary Assistance Program (FITAP) grant, Kinship Care Subsidy Program (KCSP) grant, Food Stamp benefits, Child Care Assistance Program (CCAP) services, Title IV-E, Medicaid, Louisiana Children's Health Insurance Program (LaChip) benefits, Supplemental Security Income (SSI), Free or Reduced Lunch, or who has earned income at or below 200 percent of the federal poverty level. For TANF goals 1 and 2 a family consists of minor children residing with custodial parents, or caretaker relatives of minor children.

D. Eligibility for those services meeting TANF goals 3 and 4 may include any family in need of the provided

services regardless of income. For TANF goals 3 and 4 a family consists of a minor child residing with a custodial parent or caretaker relative of the minor child, and non-custodial parents, and legal guardians.

E. Services are considered non-assistance by the agency.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq.; R.S. 46:231 and R.S. 36:474; Act 13, 2002 Reg. Session, Act 18, 2007 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 28:2374 (November 2002), amended LR 34:695 (April 2008).

§5553. Vulnerable Communities and Peoples Initiative

A. Effective August 1, 2020, the department shall enter into an agreement with the Southern University Law Center to establish the Vulnerable Communities and Peoples Initiative to stabilize families and improve their economic opportunities by reducing and/or eliminating disparities.

B. Services include, but are not limited to, research and development, community networking and partnership referrals, employment assistance, and direct and indirect legal services.

C. These services meet TANF goal 3, to prevent and reduce the incidence of out-of-wedlock pregnancies and TANF goal 4, to encourage the formation and maintenance of two-parent families by identifying direct and indirect barriers to resources and providing a network of supportive services through governmental agencies and community partnerships, such as application assistance, legal services, and referrals.

D. Eligibility for services is limited to needy, low-income family members identified and served by the Southern University Law Center.

E. Services are considered non-assistance by the department.

F. Services are subject to the availability of funds as approved and designated by the secretary.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq.; R.S. 46:231; and R.S. 36:474.

HISTORICAL NOTE: Promulgated by Department of Children and Family Services, Economic Stability Section, LR 47:36 (January 2021), effective February 1, 2021.

§5555. Individual Development Account Program (Effective July 1, 2002)

A. OFS shall establish the Individual Development Account (IDA) Program to provide asset and savings opportunities to low-income families for specific purposes as well as provide financial management education. The agency will contract to develop and administer the IDA Program for low-income families.

B. An IDA is a financial account established by, or on behalf of, an individual eligible for assistance to allow that individual to accumulate funds for specific purposes. Funds deposited into the account may be matched by the agency using Temporary Assistance for Needy Families (TANF) Block Grant funds. The balance of the account cannot exceed $6000, including interest, at any time. Funds deposited by the individual into the account must be derived from earned income. All matching contributions must be deposited in a separate matching fund account and used in accordance with the purposes outlined in §5555.C. The program will also provide financial management and organization education to eligible families.

C. Effective July 1, 2006, IDA funds may be used for one or more of the following qualified purposes as determined by the secretary:

1. postsecondary educational expenses paid from an IDA directly to an eligible educational institution;

2. first home purchase-qualified acquisition costs with respect to a qualified principal residence for a qualified first-time homebuyer, if paid from an IDA directly to the persons to whom the amounts are due; and

3. business capitalization—amounts paid from an IDA directly to a business capitalization account which is established in a federally-insured financial institution and is restricted to use solely for qualified business capitalization expenses.

D. Definitions

Eligible Educational Institution—

a. an institution described in Section 481(a)(1) or 1201(a) of the Higher Education Act of 1965 (20 U.S.C. 1088(a)(1) or 1141(a)), as such sections are in effect on the date of the enactment of this Subsection (enacted August 22, 1996);

b. an area vocational education school (as defined in Subparagraph (C) or (D) of Section 521(4) of the Carl D. Perkins Vocational and Applied Technology Education Act [20 U.S.C. 2471(4)], which is in any state (as defined in Section 521(33) of such Act [20 USCS §521(33)], as such Sections are in effect on the date of the enactment of this Subsection (enacted August 22, 1996).

Post-Secondary Educational Expenses—tuition and fees required for the enrollment or attendance of a student at an eligible education institution, and fees, books, supplies, and equipment required for courses of instruction at an eligible educational institution.

Qualified Acquisition Costs—the costs of acquiring, constructing, or reconstructing a residence. The term includes any usual or reasonable settlement, financing, or other closing costs.

Qualified Business—any business that does not contravene any law or public policy (as determined by the federal Secretary of the Department of Health and Human Services).

Qualified Business Capitalization Expenses—qualified expenditures for the capitalization of a *qualified business* pursuant to a qualified plan.

Qualified Expenditures—expenditures included in a *qualified plan* including capital, plant, equipment, working capital, and inventory expenses.

Qualified First-Time Homebuyer—a taxpayer (and if married, the taxpayer's spouse), who has no present ownership interest in a principal residence during the three-year period ending on the date of acquisition of the principle residence to which this Subsection applies. Date of acquisition means the date on which a binding contract to acquire, construct, or reconstruct the principal residence to which this Subparagraph applies is entered into.

Qualified Plan—a business plan which:

a. is approved by a financial institution, or by a nonprofit loan fund having demonstrated fiduciary integrity;

b. includes a description of services or goods to be sold, a marketing plan, and projected financial statements; and

c. may require the eligible individual to obtain the assistance of an experienced entrepreneurial advisor.

Qualified Principal Residence—a principal residence (within the meaning of Section 1034 of the Internal Revenue Code of 1986 [26 USCS §1034], the qualified acquisition costs of which do not exceed 100 percent of the average area purchase price applicable to such residence (determined in accordance with Paragraphs (2) and (3) of Section 143(e) of such Code [26 USCS §143(e)]).

E. These services meet TANF goal 1, to provide assistance to needy families so that children may be cared for in their own homes or in homes of relatives. A family consists of minor children living with custodial parents or caretaker relatives of minor children.

F. Eligibility is limited to low-income families at or below 200 percent of the federal poverty level.

G. Services are considered non-assistance by the agency

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq.; R.S. 36:474 and 46:231; Act 1098, 2001 Reg. Session; Act 84, 2002 First Extraordinary Session; Act 13, Reg. Session; HB 1, 2006 Reg. Session, Act 18, 2007 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 29:45 (January 2003), amended LR 32:2099 (November 2006), LR 34:695 (April 2008).

§5559. Early Childhood Supports and Services Program (Effective August 2, 2002)

A. The Office of Family Support, shall enter into a Memoranda of Understanding or contracts to create programs to identify and provide supports and services to young children, ages 0-5, and their families who are at risk of developing cognitive, behavioral, and relationship difficulties. Services may include but are not limited to:

1. referral to appropriate supports and services provided by network members and other resources in the community;

2. case management;

3. clinical case management;

4. behavior modification;

5. counseling;

6. parent support groups;

7. training and technical assistance;

8. consultation to other providers and agencies;

9. infant mental health screening;

10. infant mental health assessment;

11. non-recurrent, short-term emergency intervention funds for use in a crisis situation; and

12. other services as specified in the individualized ECSS family services plan.

B. Services offered by providers meet one or more of the following TANF goals:

1. Goal 1—to provide assistance to needy families so that children may be cared for in their own homes or in the home of a relative;

2. Goal 2—to end dependence of needy parents on government benefits by promoting job preparation, work, and marriage;

3. Goal 3—to prevent and reduce the incidence of out-of-wedlock pregnancies; and

4. Goal 4—to encourage the formation and maintenance of two-parent families.

C. Eligibility for services is limited to at-risk families that include a child age 0-5 years, and who have earned income at or below 200 percent of the federal poverty level. A family consists of a minor child residing with a custodial parent or caretaker relative of the minor child, and non-custodial parents.

D. Services are considered non-assistance by the agency.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq.; R.S. 46:231 and R.S. 36:474; Act 13, 2002 Reg. Session, Act 18, 2007 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 29:44 (January 2003), amended LR 34:696 (April 2008).

§5561. Early Childhood Education and Parenting Services

A. The Office of Family Support, shall enter into Memoranda of Understanding or contracts to create quality, early childhood education and parenting services programs at various sites, such as schools, Head Start and Early Head Start Centers, churches, Class A Day Care Centers, and Family Child Day Care Homes to provide children with age-appropriate services during the school year, school holidays, summer months and before-and-after school and to provide parents, legal guardians, or caretaker relatives of children with parenting and adult/family educational services. The development of public education materials and training for parents, providers, professionals, and interested parties to

educate and promote the services offered by this program and to encourage participation in the programs as well as the Child Care Assistance Program may be included in the contracts or be entered into as specific contracts promote applications for CCAP; assist providers; encourage eligible families to apply for services offered through OFS; and educate parents and others who have an interest in children and families about criteria of quality child care and the needs of young children.

B. Services offered by providers meet TANF goal 3, to prevent and reduce the incidence of out-of-wedlock pregnancies by providing supervised, safe environments for children thus limiting the opportunities for engaging in risky behaviors, and TANF goal 4, to encourage the formation and maintenance of two-parent families by providing educational services to parents or other caretakers to increase their own literacy level and effectiveness as a caregiver, and to foster positive interaction with their children.

C. Eligibility for services is limited to needy families. A needy family is a family in which any member receives a Family Independence Temporary Assistance Program (FITAP) grant, Kinship Care Subsidy (KCSP) grant, food stamp benefits, Child Care Assistance Program (CCAP) services, Title IV-E, Medicaid, Louisiana Children's Health Insurance Program (LaCHIP) benefits, Supplemental Security (SSI), Free or Reduced Lunch, or who has earned income at or below 200 percent of the federal poverty level. A needy family consists of minor children, custodial and non-custodial parents, legal guardians, or caretaker relatives of minor children.

D. Services are considered non-assistance by the agency.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq.; R.S. 46:231 and R.S. 36:474; Act 13, 2002 Reg. Session, Act 18, 2007 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 29:190 (February 2003), amended LR 31:486 (February 2005), LR 34:696 (April 2008).

§5563. Substance Abuse Treatment Program for Needy Families

A. The Department for Children and Family Services (DCFS) shall enter into a memorandum of understanding with the Department of Health and Hospitals, Office of Behavioral Health (OBH) wherein DCFS shall fund the cost of substance abuse non-medical treatment of members of needy families to the extent that funds are available commencing June 1, 2002.

B. These services meet TANF goal 2, to end the dependence of needy parents on government benefits by providing needy families with substance abuse treatment so that they may become self-sufficient in order to promote job preparation, work, and marriage.

C. Eligibility for services is limited to needy families, that is, a family in which any member receives a Family Independence Temporary Assistance Program (FITAP) grant, Kinship Care Subsidy Program (KCSP) grant, Supplemental Nutrition Assistance Program (SNAP) benefits, Child Care Assistance Program (CCAP) services, Medicaid, Louisiana Children's Health Insurance Program (LaChip) benefits, supplemental security income (SSI), free or reduced lunch, or who has earned income at or below 200 percent of the federal poverty level. A needy family includes a minor child living with a custodial parent or caretaker relative who has earned income at or below 200 percent of the federal poverty level.

D. Services are considered non-assistance by the agency.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq., R.S. 46:231 and R.S. 36:474, Act 13, 2002 Reg. Session, and Act 18, 2007 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 29:190 (February 2003), amended LR 31:486 (February 2005), LR 34:696 (April 2008), amended by the Department of Children and Family Services, Economic Stability, LR 39:1414 (June 2013).

§5567. Legal Access and Visitation

A. Effective January 1, 2009, the Office of Family Support will implement the TANF Initiative, legal access and visitation.

B. Services provided include legal services that may include: mediation, development of parenting plans, court ordered visitation, or other services to obtain regular visitation arrangements with the children. Referrals that assist non-custodial parents to overcome social, financial and emotional barriers that hinder access to their children will also be provided.

C. These services meet the TANF goal to encourage the formation of and maintenance of two-parent families by improving the parent's ability to act in the best interest of their children, providing the children continuous and quality access to both parents, improving the well-being of the children, and encouraging healthy relationships, youth development, and responsible fatherhood.

D. Eligibility for services is limited to non-custodial parents of minor children who have active child support cases under Title IV-D of the Social Security Act.

E. Services are considered non-assistance by the agency.

AUTHORITY NOTE: Promulgated in accordance with 42 USC 601 et seq.; R.S. 46:231 and R.S. 36:474; Act 19, 2008 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 35:966 (May 2009).

§5569. Alternatives to Abortion Services Program

A. Effective June 1, 2006, the Office of Family Support shall enter into contracts to provide intervention services including crisis intervention, counseling, mentoring, support services, and pre-natal care information, in addition to information and referrals regarding healthy childbirth, adoption, and parenting to help ensure healthy and full-term pregnancies as an alternative to abortion.

B. These services meet TANF goal 1, to provide assistance to needy families so children may be cared for in their own homes or in the homes of relatives and TANF goal

4, to encourage the formation and maintenance of two-parent families by providing pregnancy and parenting support to low-income women, their male partners, and families who are experiencing an unplanned pregnancy.

C. Eligibility for services is limited to pregnant women, their male partners, and/or pregnant minors whose family's income is at or below 200 percent of the federal poverty level.

D. Services are considered non-assistance by the agency.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq.; R.S. 46:231 and R.S. 36:474; Act 16, 2005 Reg. Session, Act 18, 2007 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 32:2099 (November 2006), amended LR 34:696 (April 2008).

§5571. Parenting/Fatherhood Services Program (Effective September 30, 2002)

A. The Office of Family Support shall enter into contracts to create programs that will assist low-income fathers with various skills including employment, life, parenting, and other skills in order to increase their ability to provide emotional and financial support for their children, and to create a network of community- and faith-based programs that will provide linkages to and for state entities, specifically Child Support Enforcement Services.

B. These services meet TANF goal 2, to end the dependence of needy parents on government benefits by promoting job preparation, work, and marriage, and TANF goal 4, to encourage the formation and maintenance of two-parent families by eliminating emotional, social, financial, and legal barriers that hinder a father's ability to be fully engaged in his children's lives.

C. Eligibility for services is limited to fathers of minor children, who have earned income at or below 200 percent of the federal poverty level.

D. Services are considered non-assistance by the agency.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq.; R.S. 46:231 and R.S. 36:474; Act 13, 2002 Reg. Session, Act 18, 2007 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 29:191 (February 2003), amended LR 34:697 (April 2008).

§5573. Community Supervision Program

A. The department has an agreement with the Department of Public Safety and Corrections, Office of Juvenile Justice (DPSC-OJJ), to provide services to youth and their families as a result of an adjudication and disposition by a court that orders (DPSC-OJJ) to supervise youth in their communities in an effort to prevent removal from the home.

B. OJJ will complete an intake/assessment and develop a case plan for addressing the needs of the youth. The case plan will contain goals for all need areas and when indicated, include referrals to community programs for both youth and parents. These referrals may include, but are not limited to:

1. case management, counseling, and in-home services;

2. parenting education and training, either in-home or out-of-home;

3. diagnostic and evaluation services provided in an attempt to make the most appropriate out-of-home placement;

4. supervision or non-residential programs for youth who remain in the home.

C. TANF eligibility is limited within any 12-month period to a single episode of need with a maximum duration of 12 months. TANF eligibility is also limited to families with income less than twice the state median income (SMI).

D. These services are TANF-eligible based on inclusion in the state’s approved AFDC Emergency Assistance Program that was in effect as of August 21, 1996.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq., R.S. 46:231, and R.S. 36:474, amended Act 18, 2007 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 29:2511 (November 2003), amended LR 31:487 (February 2005), LR 34:697 (April 2008), amended by the Department of Children and Family Services, Economic Stability Section, LR 42:1650 (October 2016).

§5575. Teen Pregnancy Prevention Program

A. Effective July 1, 2003, The Office of Family Support shall enter into Memoranda of Understanding or contracts to prevent or reduce out-of-wedlock and teen pregnancies by enrolling individuals 8 through 20 in supervised, safe environments, with adults leading activities according to a research-based model aimed at reducing teen pregnancy. These programs will consist of curriculums which include, but are not limited to, topics designed to educate males 18 years and older on the problem of statutory rape.

B. Services offered by providers meet TANF goal 3, to prevent and reduce the incidence of out-of-wedlock pregnancies by providing research-based prevention and intervention programming for students who live in poor communities and/or show evidence of academic underperformance, dropping out, or engaging in negative behaviors that can lead to dependency, out-of-wedlock births, or imprisonment.

C. Eligibility for services is not limited to needy families. Custodial and non-custodial parents, legal guardians, or caretaker relatives of youth who are participants in the program may also receive parenting training and educational services.

D. Services are considered non-assistance by the agency.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq.; R.S. 46:231 and R.S. 36:474; Act 14, 2003 Reg. Session, Act 18, 2007 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 30:502 (March 2004), amended LR 34:697 (April 2008), LR 34:2415 (November 2008).

§5577. Pre- and Post-Release Family Strengthening Program

A. The department shall enter into a memorandum of understanding with the Louisiana Department of Public Safety and Corrections to collect information on rehabilitation expenditures for the purpose of claiming eligible expenditures that may count as maintenance of effort (MOE) effective Temporary Assistance for Needy Families (TANF) state plan FY 2015 for the TANF grant. The eligible rehabilitation expenditures that may be claimed as MOE are from the following programs.

1. Regional Reentry Program. This program provides the following services to incarcerated male inmates to assist them in becoming self-sustaining individuals upon release: life skills training; two forms of identification; discharge planning which includes residence, employment, and referral/connection to community resources; high school equivalency classes consisting of literacy, adult basic education, and pre-HiSET classes; and vocational training opportunities. The program attempts to alter the offender's negative attitudes and behavior through treatment and training, reconnect families separated by incarceration, and prepare the family to receive the offender upon release.

2. Day Reporting Program. This program offers the following services to released offenders with technical violations who face revocation and re-incarceration: non-medical substance abuse treatment, life skills, employment skills, job placement assistance, cognitive-behavioral interventions, and intensive case management. Additional services may also include adult basic education and HiSET preparation, parenting and family relations skills, anger management, pro-social family and community support, relapse prevention activities, and pro-social cognitive decision-making as needed. The program seeks to identify critical thinking and decision making errors that can be addressed, substance abuse and mental health needs, as well as assist with family dynamics to ensure the offender has the resources and tools necessary to remain in the community and avoid a return to prison.

3. Local Jail Transition Specialists. This program uses mobile transition specialists who provide the following services to incarcerated state offenders that are housed at local jails: parenting and anger management programming, behavior modification, and case management. The program seeks to reduce the offender's risk of recidivism, increase pro-social decision making, and ensure offenders are routed to the regional reentry programs and/or day reporting centers as appropriate.

B. These services meet TANF goal 2, to end dependence of needy parents on government benefits, by promoting job preparation, work, and marriage, and TANF goal 4, to encourage the formation and maintenance of two-parent families.

C. Eligibility for services attributable to TANF/MOE funds is limited to incarcerated and released male offenders who are fathers of minor children who are members of a needy family. A family meets financial eligibility if any member receives a Family Independence Temporary Assistance Program (FITAP) grant, Kinship Care Subsidy Program (KCSP) grant, Supplemental Nutrition Assistance Program (SNAP) benefit, Title XIX (Medicaid) Medical Assistance Program benefit, Louisiana Children's Health Insurance Program (LaCHIP) benefit, or supplemental security income (SSI) benefit.

D. Services are considered non-assistance by the department.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq., P.L. 104-193, and R.S. 36:474.

HISTORICAL NOTE: Promulgated by the Department of Children and Family Services, Economic Stability Section, LR 42:864 (June 2016).

§5579. State Child Care Tax Credit

A. The department shall enter into a memorandum of understanding with the Louisiana Department of Revenue to collect information on state child care tax credit expenditures for the purpose of claiming eligible expenditures that may count as maintenance of effort (MOE) effective TANF state plan FY 2014 for the Temporary Assistance for Needy Families (TANF) grant. The state child care tax credit is an annual refundable tax credit for low-income individuals and families who have a qualified dependent who is under the age of 13, and the parent or qualified relative has paid someone to provide care for the qualified dependent so that they can work or look for work. Also, this credit may be available if a nonresident or part-year resident individual income tax return for Louisiana is filed when the child care expenses have been incurred in Louisiana during the time as a resident.

B. These services meet TANF goal two, to end dependence of needy parents on government benefits, by promoting job preparation, work, and marriage.

C. Eligibility for services attributable to TANF/MOE funds is limited to those families with minor children as noted above who meet the Louisiana Department of Revenue child care tax credit eligibility standards. The earned income must be $25,000 or less, in order for this credit to be refunded. The individuals or families must meet the same tests for earned income, qualifying dependents, and qualifying expenses as required by the Internal Revenue Service. A family consists of minor children residing with custodial parents or caretaker relatives of minor children.

D. Services are considered non-assistance by the department.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq., P.L. 104-193, and R.S. 36:474.

HISTORICAL NOTE: Promulgated by the Department of Children and Family Services, Economic Stability Section, LR 41:914 (May 2015).

§5581. Earned Income Tax Credit (EITC) Program

A. The agency has entered into contracts to provide public awareness, education and targeted outreach strategies regarding the benefits of claiming the Earned Income Tax Credit (EITC) Program, state tax credit programs, and free

taxpayer assistance effective November 1, 2006, to EITC-eligible families, and to provide financial literacy to families receiving services under this program. Strategies include collaboration with the Internal Revenue Service, various state departments and the targeted expansion of existing outreach activities to assure that free taxpayer assistance to EITC-eligible families is available statewide.

B. These services meet TANF goal 2, effective November 1, 2006, to end dependence of needy parents on government benefits by promoting job preparation, work, and marriage.

C. Effective November 1, 2006, eligibility for services is limited to those families with minor children who meet the Internal Revenue Service's EITC income eligibility standards. A family consists of minor children residing with custodial parents or caretaker relatives of minor children.

D. Services are considered non-assistance by the agency.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq.; R.S. 46:231 and R.S. 36:474; Act 1, 2004 Reg. Session, Act 16, 2005 Reg. Session, Act 18, 2007 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 31:1610 (July 2005), amended LR 33:675 (April 2007), LR 34:697 (April 2008).

§5583. Temporary Emergency Disaster Assistance Program

A. Effective October 26, 2005, the agency will enter into contracts to provide disaster emergency services to needy families with dependent children or pregnant women who are displaced because of disasters. The program will provide the following services:

1. services or benefits considered to meet on-going basic needs. These services shall not be provided for a period (in whole or in part) to exceed four months. Such services and benefits include, but are not limited to the provision of such items as basic personal items, household items, housing and utility assistance, living accommodations, transportation, job skills or employment assistance, child care vouchers, non-medical substance abuse treatment, mental health services, property repair, and moving assistance;

2. services or benefits not considered to meet ongoing basic needs. These services may be provided to participant families for a period exceeding four months if considered vital to the long-term recovery of participant families. Such services may include, but are not limited to, supportive services such as transportation for employed participants, child care for employed participants, non-medical substance abuse treatment, employment assistance or job training, or other necessary supportive services as determined by the Department of Social Services, Office of Family Support.

B. These services meet TANF goal 2, to end dependence of needy parents on government benefits by promoting job preparation, work and marriage and TANF goal 4, to encourage the formation and maintenance of two-parent families.

C. Eligibility for services is limited to needy families with minor dependent children, or minor dependent children living with caretaker relatives within the fifth degree of relationship, or pregnant women:

1. who are displaced citizens of parishes or counties for which a major disaster has been declared under the Robert T. Stafford Disaster Relief and Assistance Act; and

2. whose income is at or below 250 percent of the federal poverty level or who are categorically eligible because a member of the family receives a Family Independence Temporary Assistance Program (FITAP) grant, Kinship Care Subsidy Program (KCSP) grant, Food Stamps, Child Care Assistance Program (CCAP) benefits, Medicaid, Louisiana Children's Health Insurance Program (LaCHIP), Supplemental Security Income (SSI), or free or reduced school lunch.

D. The secretary may establish criteria whereby needy families are deemed to be needy based on their statement, circumstances, or inability to access resources and may also relax verification requirements for other eligibility factors.

E. Services are considered non-assistance by the agency.

F. The program shall be effective for the parishes or counties and time frames as designated by the secretary.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq.; R.S. 46:231 and R.S. 36:474; Act 16, 2005 Reg. Session, P.L. 109-168 TANF Emergency Response and Recovery Act of 2005, Act 18, 2007 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR:32:1617 (September 2006), amended LR 33:2205 (October 2007), LR 34:697 (April 2008).

§5585. LA 4 Public Pre-Kindergarten Program

A. Effective July 1, 2009, the Office of Family Support shall enter into a contract with the Department of Education for the LA 4 Public Pre-Kindergarten Program.

B. Services include providing high quality early childhood education to at risk 4-year-olds in participating public school districts as well as charter schools.

C. These services meet TANF goal 3, to prevent and reduce the incidence of out-of-wedlock pregnancies and TANF goal 4, to encourage the formation and maintenance of two-parent families by placing children in learning environments at the pre-school level to foster an interest in learning, increase literacy levels and increase the likelihood of developing responsible behavior.

D. Eligibility for services is limited to at risk families in which the child is one year younger than the eligible age for kindergarten and is eligible to receive free or reduced school lunch meals pursuant to the Federal Child Nutrition Program as documented by a completed application for such meals, whether or not such meals are sought.

E. Services are considered non-assistance by the agency.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq.; R.S. 46:231 and R.S. 36:474; House Bill 1 of the 2009 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 35:2840 (December 2009).

§5587. Children's Defense Fund Freedom Schools

A. Effective June 1, 2006, the agency shall enter into contracts to create supportive, nurturing, literature-rich environments for children ages 5 to 18 years of age by focusing on literacy, cultural heritage, parental involvement, servant-leadership, and social action. The Freedom Schools program connects the needs of children and their families with the resources of the community.

B. These services meet TANF goal 3, to prevent and reduce the incidence of out-of-wedlock pregnancies by providing improved life prospects for students who show evidence of failing, dropping out or engaging in negative behaviors that can lead to out-of-wedlock births.

C. Eligibility for services is not limited to needy families.

D. Services are considered non-assistance by the agency.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq.; R.S. 46:231 and R.S. 36:474; HB 1 2006 Reg. Session, Act 18, 2007 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 32:2099 (November 2006), amended LR 34:698 (April 2008).

§5589. Homeless Initiative

A. Effective December 1, 2006, the Office of Family Support shall enter into contracts with public agencies, non-profit organizations, or for-profit organizations to end the cycle of homelessness in Louisiana by providing services to homeless families which include but are not limited to comprehensive case management, educational and employment opportunities for adult participants, community referrals, life skill modules, and housing options. Direct services that are provided in response to an episode of need or a specific crisis situation and are non-recurrent, such as but not limited to food, clothing, and shelter assistance, will not be provided beyond four months.

B. These services meet TANF goal 1, to provide assistance to needy families so children may be cared for in their own homes or in the homes of relatives by providing educational and employment opportunities to increase the literacy level and effectiveness of a caregiver.

C. Eligibility for services is limited to needy families, that is, a family in which any member receives a Family Independence Temporary Assistance Program (FITAP) grant, Kinship Care Subsidy Program (KCSP) grant, Food Stamp benefits, Child Care Assistance Program (CCAP) services, Title IV-E, Medicaid, Louisiana Children's Health Insurance Program (LaChip) benefits, Supplemental Security Income (SSI), Free or Reduced Lunch, or who has earned income at or below 200 percent of the federal poverty level. A needy family consists of minor children, custodial parents, or caretaker relatives of minor children.

D. Services are considered non-assistance by the agency.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq.; R.S. 46:231 and R.S. 36:474; Act 17, 2006 Reg. Session, Act 18, 2007 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 33:674 (April 2007), amended LR 33:2205 (October 2007), LR 34:698 (April 2008).

§5591. Jobs for America's Graduates Louisiana (JAGS-LA) Program

A. Effective November 1, 2020, the department may enter into agreements for the purpose of administrating the Jobs for America's Graduates Louisiana (JAG-LA) Program to help keep in school those students at risk of failing in school, to capture out-of-school youth in need of a high school education, to provide an avenue for achieving academically, and to assist students in ultimately earning recognized credentials that will make it possible for them to exit school and enter post-secondary education and/or the workforce.

B. These services meet TANF Goal 3 to prevent and reduce the incidence of out-of-wedlock pregnancies by providing intervention and improved life prospects for students who show evidence of failing, dropping out or engaging in negative behaviors that can lead to dependency, out-of-wedlock births, imprisonment, and/or other undesirable outcomes which may lead to the detriment and impoverishment of youth.

C. Eligible participants in the JAG-LA Program shall be 12-22 years of age and must face at least two designated barriers to success that include economic, academic, personal, environmental, or work related barriers.

D. Services are considered non-assistance by the agency.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq.; R.S. 46:231 and R.S. 36:474; House Bill 1, 2007 Reg. Session Act 18, 2007 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 33:2468 (November 2007), amended LR 34:698 (April 2008), LR 35:1257 (July 2009), amended by the Department of Children and Family Services, Economic Stability Section, LR 47:350 (March 2021).

§5593. Nurse Family Partnership (NFP) Program

A. Effective October 1, 2007, the Office of Family Support shall enter into a Memorandum of Understanding with the Louisiana Office of Public Health, Maternal and Child Health Program to serve low-income, first-time mothers by providing nurse home visitation services beginning early in pregnancy and continuing through the first two years of the child's life. First time mothers may enroll as early as possible during their pregnancy, through week 28 of their pregnancy. The goals of the program include, but are not limited to, improving child health and development and increasing the economic self-sufficiency for eligible participants. Examples of the activities used to achieve these goals include, but are not limited to, engaging

in activities centered on child development, parenting skills, developing a plan to continue the mother's education, and assisting the mother in finding employment.

B. These services meet TANF Goals 1 thru 4:

1. Goal 1—to provide assistance to needy families so that children may be cared for in their own homes or in the homes of relatives;

2. Goal 2—to end dependence of needy parents on government benefits by promoting job preparation, work, and marriage;

3. Goal 3—to prevent and reduce the incidence of out-of-wedlock pregnancies; and

4. Goal 4—to encourage the formation and maintenance of two-parent families.

C. Eligibility for services is limited to needy first time mothers. Eligible participants in the NFP Program shall be first-time mothers who are no more than 28 weeks pregnant at the time of enrollment and who are at or below 200 percent of federal poverty.

D. Services are considered non-assistance by the agency in that they are not considered to meet an on-going basic need.

AUTHORITY NOTE: Promulgated in accordance with 42 USC 601 et seq.; R.S. 46:231 and R.S. 36:474; Act 18, 2007 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 34:277 (February 2008).

§5595. General Education Development (GED) Testing Program

A. Effective October 17, 2007, the Office of Family Support shall enter into a Memorandum of Understanding with the Department of Education for the General Educational Development (GED) Testing Program.

B. The services provided consist of GED adult literacy services which prepare students for passage of the GED Test. The GED adult literacy services will address all levels of entering students such as Adult Basic Education (ABE) which will be directed toward students with literacy skills in the range of grades 0-6; Pre-GED directed toward students with literacy skills in the range of grades 7-8; and Adult Secondary Education (ASE) directed toward students with literacy skills in the range of grades 9-12.

C. These services will be provided to 16-21 year olds. These services meet TANF Goal 3, to prevent and reduce the incidence of out-of-wedlock pregnancies. TANF Goal 3 will be met by supporting and enhancing the educational and job readiness skills of youth at risk of dropping out of school and those who have already dropped out of school and are at risk of engaging in negative behaviors that can lead to out-of-wedlock pregnancies. These services will also be provided to custodial and non-custodial parents who are 22 years old and older with a minor child. These services meet TANF Goal 4, to encourage the formation and maintenance of a two parent families. TANF Goal 4 will be met by building stable families by promoting GED attainment which will lead to improved opportunities for employment.

D. Eligibility for services is not limited to needy families.

E. Services are considered non-assistance in that they are not considered to meet an on-going need.

AUTHORITY NOTE: Promulgated in accordance with 42 USC 601 et seq.; R.S. 46:231 and R.S. 36:474; Act 18, 2007 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 34:277 (February 2008).

§5597. Child Welfare Emergency Assistance Services Program

A. The Child Welfare Emergency Assistance Services Program will provide services to children who are removed from their parents by the courts and are in foster care. These services include case management and planning as performed by DCFS' staff. The types of assistance that meet the emergency situation may include shelter care, foster family care or emergency shelter care including food, clothing and supervision.

B. TANF eligibility is limited within any 12-month period to a single episode of need with a maximum duration of 12 months. TANF eligibility is also limited to families with income less than twice the state median income (SMI).

C. These services are TANF-eligible based on inclusion in the state's approved AFDC Emergency Assistance Program that was in effect as of August 21, 1996.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq., P.L. 104-193, R.S. 46:231, and R.S. 36:474.

HISTORICAL NOTE: Promulgated by the Department of Children and Family Services, Economic Stability Section, LR 39:67 (January 2013), amended LR 39:2191 (August 2013).

§5599. Louisiana Student Financial Assistance Grants

A. The department, through an agreement with the Louisiana Office of Student Financial Assistance (LOSFA), shall collect information on tuition assistance expenditures provided to eligible low income students who are pursuing postsecondary education for the purpose of claiming eligible expenditures that may count as maintenance of effort (MOE) effective TANF state plan FY 2011 for the Temporary Assistance for Needy Families (TANF) grant. The eligible tuition assistance expenditures that may be claimed as MOE are from the following programs.

1. *Louisiana Go Grants*—a need based student financial aid grant that supports nontraditional and low income students in their pursuit of postsecondary education. To receive the Go Grants, a student must be receiving a federal Pell grant and have remaining financial need, as determined in accordance with a formula established by the Louisiana Board of Regents. The formula for determining financial need is subject to change on a yearly basis in order to ensure that the greatest number of students will benefit

from the funds appropriated for the program by the Louisiana Legislature.

2. *Taylor Opportunity Program for Students (TOPS*)—a state scholarship program for Louisiana residents who attend Louisiana postsecondary institutions.

B. These services meet TANF goal three, to prevent and reduce the incidence of out-of-wedlock pregnancies, by providing financial aid to eligible students who are pursuing postsecondary education. The services provide the students with the tools necessary to reduce risky behaviors and increase positive decision making.

C. Financial eligibility for these services attributable to TANF/maintenance of effort (MOE) funds is limited as follows.

1. Certification for TANF MOE for Go Grant expenditures will be those students who receive Pell Grants and have a remaining financial need and are defined as dependent by the U.S. Department of Education. The amount used for TANF maintenance of effort is not duplicated in determining match or maintenance of effort for any other program.

2. TANF eligibility for students receiving TOPS will be determined by receipt of a Go Grants. Certification for TANF MOE for TOPS expenditures will be for those students who simultaneously receive TOPS and Go Grants and are defined as dependent by the U.S. Department of Education.

D. Services are considered non-assistance by the department.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq., P.L. 104-193, and R.S. 36:474.

HISTORICAL NOTE: Promulgated by the Department of Children and Family Services, Economic Stability Section, LR 40:759 (April 2014).

Title 67
SOCIAL SERVICES
Part III. Family Support
Subpart 16. Strategies to Empower People (STEP) Program

Chapter 57. Strategies to Empower People (STEP) Program

Subchapter A. Designation and Authority of State Agency

§5701. General Authority

A. The Strategies to Empower People Program is established in accordance with state and federal laws effective October 1, 2003, to assist recipients of cash assistance to become self-sufficient by providing needed employment-related activities and support services.

AUTHORITY NOTE: Promulgated in accordance with P.L. 104-193, R.S. 46:231, R.S. 46:460, and Act 58, 2003 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 30:497 (March 2004).

§5703. Program Administration

A. The Department of Children and Family Services (DCFS) shall develop, implement, and administer STEP as the employment program for work-eligible recipients of the Family Independence Temporary Assistance Program (FITAP) in accordance with the provisions of the Federal Welfare Reform Act and make available to eligible FITAP recipients the allowable work, training, and education activities of the STEP Program.

B. Prior to receipt of FITAP, a work-eligible participant shall be notified in writing of program expectations and participant responsibilities. When possible, notification may be delivered via e-mail or other electronic means, and notification delivered in this manner shall be deemed to satisfy the written notification requirement established in this Chapter.

C. DCFS shall collaborate with the Louisiana Workforce Commission (LWC) to identify and coordinate employment services for the program. Employment services shall be delivered pursuant to performance-based contracts between the department and LWC, other government agencies, or any community partner.

D. A grievance procedure is available for resolving displacement complaints by regular employees or their representatives relating to STEP participants. A grievance procedure is also available for resolving complaints by, or on behalf of, STEP participants in a work-related activity. This grievance procedure hears complaints relating to on-the-job working conditions and workers' compensation coverage.

E. The secretary shall provide workers' compensation and liability insurance coverage for participants engaged in work experience or community service activities.

AUTHORITY NOTE: Promulgated in accordance with P.L. 104-193, R.S. 46:231, R.S. 46:460, and Act 58, 2003 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 30:497 (March 2004), amended by the Department of Children and Family Services, Economic Stability Section, LR 40:1676 (September 2014).

§5705. Definitions

Family Assessment—consists of an initial employability assessment and a comprehensive assessment if needed:

1. initial employability assessment is designed to determine the applicant's level of employability, immediate needs, and family circumstances during the application process;

2. comprehensive assessment is conducted once the applicant is certified for eligibility if needed and may include but is not limited to workplace literacy, basic skills and educational attainment, interests and aptitude related to employment, barriers to employment, need for education, supportive services such as child care and transportation, and other supportive services. Specialized assessments can occur for issues that arise after an initial assessment has been completed and could include substance abuse, domestic violence, mental health screening, or others as determined by the department.

Family Success Agreement (FSA)—the mutually developed contract between a Family Independence Temporary Assistance Program (FITAP) recipient, on behalf of their family, and the department that sets forth mutual and time-bound responsibilities, expectations, activities, and goals designed to transition the family from receipt of FITAP to self-sufficiency.

Strategies to Empower People (STEP)—the program that provides education, employment, training and related services for families receiving FITAP assistance.

Work-Eligible Family—a FITAP family (including cases which do not receive cash because their benefit would be less than $10) which includes at least one adult under age 60 or a teen head of household who is not disabled or incapacitated, or who is not caring for a family member who is disabled or incapacitated as documented by a medical professional.

Work-Eligible Recipient—an adult under age 60 or a teen head of household who is included in a work-eligible family

and who is not disabled or incapacitated, or who is not caring for a family member who is disabled or incapacitated, as documented by a medical professional.

AUTHORITY NOTE: Promulgated in accordance with P.L. 104-193, R.S. 46:231, R.S. 46:460, and Act 58, 2003 Reg. Session; Act 110, 2004 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 30:497 (March 2004), amended LR 31:103 (January 2005), amended by the Department of Children and Family Services, Economic Stability Section, LR 40:1676 (September 2014).

§5707. Domestic Violence

A. The secretary shall waive, for as long as necessary, pursuant to a determination of good cause, any public assistance program requirement that will create obstacles for a victim of domestic violence to escape a domestic violence situation, including but not limited to time limits on receipt of assistance, work, training or educational requirements, limitations on TANF requirements, residency requirements, and any other program requirements which will create obstacles for such victim to escape violence or penalize that victim for past, present, and potential for abuse. However, a victim of domestic violence shall develop a plan that specifies the necessary actions, goals, and services that may enable the victim to become free of a domestic violence situation.

AUTHORITY NOTE: Promulgated in accordance with P.L. 104-193, R.S. 46:231, R.S. 46:460, and Act 58, 2003 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 30:498 (March 2004), amended by the Department of Children and Family Services, Economic Stability Section, LR 40:1676 (September 2014).

Subchapter B. Participation Requirements

§5709. School Attendance

A. Work-eligible FITAP recipients, in order to ensure appropriate child development, educational attainment, and school attendance for each minor child included in the assistance unit, shall agree in the family success agreement (FSA) to actively participate in their child's education through parent-teacher conferences, homework assistance, or other activities.

B. Work-eligible, minor parents who have not yet received a high school diploma or its equivalent shall attend school or related education classes designed to obtain a high school diploma or its equivalent. School attendance shall be the primary work activity for those minor parents who do not have a high school diploma or its equivalent.

AUTHORITY NOTE: Promulgated in accordance with P.L. 104-193, R.S. 46:231, R.S. 46:460, and Act 58, 2003 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 30:498 (March 2004), amended by the Department of Children and Family Services, Economic Stability Section, LR 40:1676 (September 2014).

§5711. Parenting Skills Education

A. Effective May 1, 2006, FITAP and KCSP recipients who are pregnant or have a child under age one shall participate in parenting skills education as the primary work activity under the Family Success Agreement. Parenting Skills Education consists of family strengthening, parenting information, and money management information. The lessons provide key parenting practices for parents to learn child nurturance that includes care, safety, and understanding child development. Applicable child care and transportation shall be provided to participants to enable their participation.

AUTHORITY NOTE: Promulgated in accordance with P.L. 104-193, R.S. 46:231, R.S. 46:460, Act 58, 2003 Reg. Session, and Act 16, 2005 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 30:498 (March 2004), amended LR 32:1913 (October 2006).

§5713. Work Activities

A. Work-eligible recipients shall participate in appropriate work activities for the minimum number of hours specified by federal law as agreed upon in the FSA. Appropriate work activities may include but are not limited to:

1. subsidized or unsubsidized employment;
2. unpaid work experience;
3. on-the-job training;
4. job search;
5. job readiness;
6. vocational education;
7. attendance in secondary school for those individuals who have not graduated from high school;
8. participation in GED or basic skills training;
9. employment-related education;
10. job skills training;
11. community service; and
12. the provision of child care to an individual who is participating in community service.

B. Participants who are found not to possess basic workplace or basic literacy skills, as determined by an assessment, shall combine employment and job readiness and job search activities with activities designed to increase their basic and workplace literacy skills.

AUTHORITY NOTE: Promulgated in accordance with P.L. 104-193, R.S. 46:231, R.S. 46:460, and Act 58, 2003 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 30:498 (March 2004), amended by the Department of Children and Family Services, Economic Stability Section, LR 40:1677 (September 2014).

§5715. Good Cause

A. A work-eligible applicant or recipient of cash assistance shall immediately participate in work activities for the minimum number of hours per week required by federal law unless one of the following good cause reasons applies:

1. Appropriate child care is unavailable within a reasonable distance from the participant's home or worksite after efforts have been made, and assistance has been offered, to secure child care.

2. Appropriate transportation is:

a. unavailable and the participant's home or worksite are not within a reasonable walking distance, or

b. available but is cost prohibitive.

3. Situations Related to Domestic Violence. Any participant that receives a good cause exception related to domestic violence shall complete a plan that specifies the necessary actions, goals, and services that may enable the victim to become free of the violence.

4. Situations related to the treatment of a mental or physical illness, including substance abuse treatment, where there is verification that participation in required activities would impair a treatment plan of a mental health or medical professional.

5. Temporary, short-term illness, or the temporary care of a family member who is ill, as documented by a medical professional.

6. Temporary emergency crisis, such as homelessness, fire, accident, dislocation due to natural causes, hurricane, flood, or similar circumstances that can be substantiated.

B. Participants who are granted good cause shall be informed that this time is counted against their federal 60-month time limit and state 24-month time limit for receipt of cash assistance.

C. When good cause is granted, the basis for good cause shall be re-evaluated every six months to determine if good cause continues to exist.

AUTHORITY NOTE: Promulgated in accordance with P.L. 104-193, R.S. 46:231, R.S. 46:460, and Act 58, 2003 Reg. Session; Act 110 and Act 675, 2004 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 30:498 (March 2004), amended LR 31:103 (January 2005), amended by the Department of Children and Family Services, Economic Stability Section, LR 40:1677 (September 2014).

§5717. Sanctions

A. Sanctions shall be used as a last resort to inform participants that they have not met the expectations set forth in the FSA. Participants shall be sanctioned for the following violations:

1. failure of a work-eligible, minor parent with a child who has not yet received a high school diploma or its equivalent, to attend school or related education classes designed to obtain a high school diploma or its equivalent;

2. failure of a public assistance recipient who is pregnant or has a child under age one to attend parenting education and other training conducive to the unique needs of new parents;

3. failure of work-eligible families to meet the required employment and education activities for the minimum number of hours without good cause, as specified in the FSA; or

4. failure of work-eligible families to meet other requirements such as but not limited to immunization, cooperation with support enforcement services, compliance with substance abuse screening, testing, treatment, etc., as specified in the FSA.

B. If it is determined that a work-eligible family has failed to meet the required activities as specified in the FSA without good cause, that family shall be ineligible for FITAP benefits as follows:

1. first sanction—a minimum of one month or until compliance, whichever is longer;

2. second sanction—a minimum of two months or until compliance, whichever is longer;

3. third or subsequent sanction—a minimum of three months or until compliance, whichever is longer.

AUTHORITY NOTE: Promulgated in accordance with P.L. 104-193, R.S. 46:231, R.S. 46:460, and Act 58, 2003 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 30:499 (March 2004), amended by the Department of Children and Family Services, Economic Stability Section, LR 40:1677 (September 2014).

Subchapter C. STEP Program Process

§5719. Family Assessment

A. A family assessment shall be completed on all FITAP/STEP applicants in order to assist the worker in identifying family strengths, weaknesses, opportunities and barriers as well as determining programs that the applicants will need to become self-sufficient.

B. The family assessment may be created, sent, signed, or stored by electronic means.

AUTHORITY NOTE: Promulgated in accordance with P.L. 104-193, R.S. 46:231, R.S. 46:460, and Act 58, 2003 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 30:499 (March 2004), amended by the Department of Children and Family Services, Economic Stability Section, LR 40:1677 (September 2014).

§5721. Job Readiness

A. DCFS will ensure job readiness services are provided through other state partners or through performance-based contracts.

AUTHORITY NOTE: Promulgated in accordance with P.L. 104-193, R.S. 46:231, R.S. 46:460, and Act 285, 2013 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 30:499 (March 2004), amended by the Department of Children and Family Services, Economic Stability Section, LR 40:1678 (September 2014), amended by the Department of Children and Family Services, Division of Programs, Economic Stability Section, LR 41:2311 (November 2015).

§5723. Comprehensive Assessment

A. Once the applicant is certified for eligibility, a comprehensive assessment shall be conducted if needed and may include but is not limited to workplace literacy, basic skills and educational attainment, interests and aptitude related to employment, barriers to employment, need for education, supportive services such as child care and transportation, and other supportive services.

B. Specialized assessments can occur for issues that arise after an initial assessment has been completed and could include substance abuse, domestic violence, mental health screening, or others as determined by the department.

AUTHORITY NOTE: Promulgated in accordance with P.L. 104-193, R.S. 46:231, R.S. 46:460, and Act 58, 2003 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 30:499 (March 2004), amended by the Department of Children and Family Services, Economic Stability Section, LR 40:1678 (September 2014).

§5725. Family Success Agreement (FSA)

A. Upon determination of eligibility and after completion of the comprehensive assessment if needed, work-eligible participants shall enter into a contractual agreement, known as the family success agreement (FSA), with the department. The FSA will specify:

1. the client's time-bound goals, responsibilities, and work activity participation; and

2. the department's obligation to provide necessary supportive services, assessments, notifications, information, and case management.

B. The FSA shall be updated at least every six months or as the client's needs, goals, barriers, and family circumstances change. It shall be the responsibility of the participant to inform the department or its representative of these changes.

C. The family success agreement may be created, sent, signed, or stored by electronic means. The electronic version of the Family Success Agreement is known as the Case Plan.

AUTHORITY NOTE: Promulgated in accordance with P.L. 104-193, R.S. 46:231, R.S. 46:460, and Act 58, 2003 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 30:500 (March 2004), amended by the Department of Children and Family Services, Economic Stability Section, LR 40:1678 (September 2014).

§5729. Support Services

A. Clients may be provided support services that include but are not limited to:

1. a full range of case maintenance and case management services designed to lead to self-sufficiency;

2. transportation assistance;

3. Supplemental Nutrition Assistance Program (SNAP) benefits;

4. Medicaid benefits;

5. child care;

6. TANF-funded services; and

7. other services necessary to accept or maintain employment.

B. Support services may be provided to:

1. persons participating in the family assessment;

2. persons referred by the department to other activities, such as drug counseling, prior to their participation in a work activity;

3. FITAP recipients participating in approved activities necessary to meet exemptions to the FITAP time limits;

4. FITAP recipients to facilitate their attendance in the FITAP Drug Testing Program or Parenting Skills Program;

5. allow participation in educational activities for FITAP recipients who are exempt from STEP.

C. Electronic disbursement of support services payments shall be mandatory for all payment types.

1. Electronic disbursement of support services payments other than child care payments includes direct deposit to the STEP participant's bank account (checking or savings) or payments to a stored value card account for the STEP participant.

2. Electronic disbursement of child care payments includes direct deposit to the CCAP provider's bank account (checking or savings) or payments to a stored value card account for the CCAP provider.

D. The department shall inform participants of available supportive services as part of the initial family assessment and shall integrate the provision of any necessary supportive services to the family success agreement developed and signed by the department and the participant.

AUTHORITY NOTE: Promulgated in accordance with P.L. 104-193, R.S. 46:231, R.S. 46:460, and Act 58, 2003 Reg. Session, ACYF-IM-CC-05-03.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 30:500 (March 2004), amended LR 32:2098 (November 2006), amended by the Department of Children and Family Services, Economic Stability and Self-Sufficiency Section, LR 38:1391 (June 2012), amended by the Department of Children and Family Services, Economic Stability Section, LR 40:1678 (September 2014).

Title 67
SOCIAL SERVICES
Part III. Family Support
Subpart 17. Earned Income Tax Credit and Tax Assistance Program for Filers without Children

Chapter 58. Earned Income Tax Credit and Tax Assistance Program for Filers without Children

Subchapter A. Designation and Authority of State Agency

§5801. Authority

A. The Earned Income Tax Credit and Tax Assistance Program for Filers without Children Program is established in accordance with Executive Order KBB 2005-17 Louisiana Solutions to Poverty Network Council, effective November 1, 2006, to provide a tax filing service offered free of charge to low-income taxpayers.

AUTHORITY NOTE: Promulgated in accordance with Executive Order KBB 2005-17 Louisiana Solutions to Poverty Network Council.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 33:674 (April 2007).

§5803. Administration

A. The Earned Income Tax Credit and Tax Assistance Program for Filers without Children Program shall be administered by the Department of Social Services, Office of Family Support through contracts with outside entities.

AUTHORITY NOTE: Promulgated in accordance with Executive Order KBB 2005-17 Louisiana Solutions to Poverty Network Council.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 33:674 (April 2007).

Subchapter B. Eligibility

§5805. Conditions of Eligibility

A. Eligibility for services is limited to:

1. individuals without minor children who meet the U.S. Department of the Treasury Internal Revenue Service's Earned Income Tax Credit income eligibility standard; or

2. married couples without minor children who meet the U.S. Department of the Treasury Internal Revenue Service's Earned Income Tax Credit income eligibility standard.

AUTHORITY NOTE: Promulgated in accordance with Executive Order KBB 2005-17 Louisiana Solutions to Poverty Network Council.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 33:674 (April 2007).

Subpart 19. Family Violence Prevention and Intervention Program

Chapter 69. Family Violence Prevention and Intervention Program

Subchapter A. Program Administration and Eligibility

§6901. Program Creation

A. From federal funds, state funds, and/or funds made available from private or local sources for this purpose, the Department of Children and Family Services (DCFS) is hereby authorized to establish a family violence program, hereafter called the "Family Violence Prevention and Intervention Program." This program is for the development of community based shelters and support services for victims of family violence, domestic violence, and dating violence. The Family Violence Prevention and Intervention Program is partially funded through the Temporary Assistance for Needy Families (TANF) block grant. The program meets TANF goal 4 to encourage the formation and maintenance of two-parent families. DCFS will be responsible for the administration of available funding to selected program providers.

B. DCFS will administer the program to do the following:

1. establish immediate and full-time trauma informed shelters for victims of family violence, domestic violence, and dating violence and their dependents; and

2. increase, improve, and coordinate the delivery of comprehensive support services to victims of family violence, domestic violence, and dating violence.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:2121-2128.

HISTORICAL NOTE: Promulgated by the Department of Children and Family Services, Economic Stability Section, LR 44:25 (January 2018).

§6903. Eligible Organizations

A. In order to receive funding, a program provider's core function must be providing assistance to victims of family violence, domestic violence, and dating violence. The program provider must be a public or private nonprofit organization and demonstrate that it can provide services that include but are not limited to the following:

1. a 24-hour a day shelter which provides safe refuge and temporary lodging for victims of family violence, domestic violence, and dating violence and their dependents or other safe refuge accommodations such as time limited hotel and motel placements and other direct placement programs;

2. counseling for victims;

3. support programs that assist victims of family violence, domestic violence, and dating violence in obtaining needed medical, legal, and other services and information; and

4. educational programs tailored to increase community awareness of family violence, domestic violence, and dating violence.

B. The program provider must meet minimum health, safety, and program standards as defined in standards 4.1 and 4.2 (see §6921).

C. The program provider must demonstrate that they have received, or can expect to receive, separate local funding equal to 20 percent of their anticipated cost of operation. In-kind contributions, whether it be materials, commodities, transportation, office space, other types of facilities, personal services, or otherwise, will be evaluated by the department and, if appropriate, will be included as part of the required local 20 percent funding.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:2121-2128.

HISTORICAL NOTE: Promulgated by the Department of Children and Family Services, Economic Stability Section, LR 44:25 (January 2018).

§6905. Contracts for Services

A. DCFS will contract for services with eligible providers in accordance with the Louisiana procurement code, R.S. 39:1551-1736.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:2121-2128.

HISTORICAL NOTE: Promulgated by the Department of Children and Family Services, Economic Stability Section, LR 44:25 (January 2018).

§6907. Application Process

A. Application packets will be sent to all existing family violence program providers and all persons and organizations that have made past inquiries regarding funding. Organizations interested in applying may request application packets from the Department of Children and Family Services, P.O. Box 94065, Baton Rouge, LA 70821.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:2121-2128.

HISTORICAL NOTE: Promulgated by the Department of Children and Family Services, Economic Stability Section, LR 44:25 (January 2018).

§6909. Definitions

Counseling—supportive services that are provided to individuals or groups and includes referrals to community-based social services.

Crisis Counseling—in-person crisis intervention, emotional support, guidance, and counseling provided by advocates, counselors, mental health professionals, or peers. Such counseling may occur at the scene of a crime, immediately after a crime, or provided on an ongoing basis.

Dating Violence—violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim and where the existence of such a relationship shall be determined based on a consideration of the length of the relationship, the type of relationship, and the frequency of interaction between the persons involved in the relationship.

Domestic Violence—a pattern of assaultive and coercive behaviors, including physical, sexual, and psychological attacks, as well as economic coercion, that adults or adolescents use against their intimate partners where the perpetrator and victim are current or have been previously dating, cohabiting, married, or divorced. This includes felony or misdemeanor crimes of violence committed by a current or former spouse of the victim, by a person with whom the victim shares a child in common, by a person who is cohabitating with or has cohabitated with the victim as a spouse or intimate partner, by a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction receiving grant monies, or by any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of the jurisdiction.

Family Violence—any act or threatened act of violence, including any forceful detention of an individual that results or threatens to result in physical injury and is committed by a person against another individual to or with whom such person is related by blood or is or was related by marriage or is or was otherwise legally related or is or was lawfully residing.

Personally Identifying Information or *Personal Information*—any individually identifying information for or about an individual, including information likely to disclose the location of a victim of domestic violence, dating violence, sexual assault, or stalking, regardless of whether the information is encoded, encrypted, hashed, or otherwise protected, including:

1. a first and last name;

2. a home or other physical address;

3. contact information (including a postal, e-mail or internet protocol address, or telephone or facsimile number);

4. a Social Security number, driver's license number, passport number, or student identification number; and

5. any other information (including date of birth, racial or ethnic background, or religious affiliation, that would serve to identify any individual).

Shelter—the provision of temporary refuge and supportive services in compliance with applicable state law governing the provision, on a regular basis, of shelter, safe homes,

meals, clothing, personal care items and supportive services to victims of family violence, domestic violence, or dating violence, and their dependents.

Support Programs—preventive and counseling services such as outreach, parenting, employment training, educational services, promotion of good nutrition, disease prevention, substance abuse counseling, legal advocacy, transportation, and adult and child counseling.

Supportive Services—services that meet the needs of victims of family violence, domestic violence and dating violence and their dependents for short term, transitional, or long term safety and provides counseling, advocacy, and assistance for victims.

Survivor—someone who has experienced any form of intimate partner violence, has overcome the domestic violence, or who has escaped an abusive relationship.

Trauma Informed Care—is an organizational structure and treatment framework that involves understanding, recognizing, and responding to the effects of all types of trauma. Trauma informed care also emphasizes physical, psychological, and emotional safety for both survivors and providers, and helps survivors rebuild a sense of control and empowerment.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:2121-2128.

HISTORICAL NOTE: Promulgated by the Department of Children and Family Services, Economic Stability Section, LR 44:25 (January 2018).

§6911. Program Monitoring

A. Program providers that contract with the Department of Children and Family Services (DCFS) and receive funding for domestic violence programs must allow and agree that:

1. DCFS personnel will make annual on-site programmatic contract reviews. DCFS, at its discretion, may make more than one programmatic visit per year. These site visits will be conducted for compliance with contractual requirements; and

2. the program grants to the Office of the Legislative Auditor, the Office of the Inspector General, the Bureau of Audit and Compliance Services, the federal government, and any other officially designated authorized representatives of DCFS the right to audit, inspect, and review all books and records pertaining to services rendered under their contract with DCFS and the right to conduct on-site monitoring.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:2121-2128.

HISTORICAL NOTE: Promulgated by the Department of Children and Family Services, Economic Stability Section, LR 44:26 (January 2018).

§6913. Guiding Principles for Minimum Program Standards

A. All of the minimum program standards are considered mandatory. Any program provider found noncompliant with a critical standard must submit a corrective action plan to address the noncompliant standard to the department within 15 calendar days after the date of the program inspection.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:2121-2128.

HISTORICAL NOTE: Promulgated by the Department of Children and Family Services, Economic Stability Section, LR 44:26 (January 2018).

Subchapter B. Minimum Program Standards

§6915. Governance

A. Guiding Principles. The board of directors is the governing body of a nonprofit organization. The board establishes the program's mission statement and develops policies necessary to carry out the mission. The board secures financial support and is legally responsible and accountable for the organization and the programs that the organization administers. The roles of the board and the executive director are clearly differentiated. The executive director, a program staff member, does not govern and the board does not interfere with, participate in, or administer the day-to-day program activities.

B. Critical Minimum Standards

1. Standard 1.1. The mission and philosophy of the program must be compatible with the philosophy of the department as stated in §6901.B.1-2.

2. Standard 1.2. The program must have documentation of its authority to operate under state law.

3. Standard 1.3. The program must have a designated board of directors.

C. Minimum Standards

1. Standard 1.4. The program must have documents that identify the board of directors' names, addresses, and the dates of their membership on the board.

2. Standard 1.5. The board must consist of individuals who do not have a conflict of interest with program staff members or other board members.

3. Standard 1.6. The board must have a written conflict of interest policy. This policy will prohibit anyone in the provider organization from undertaking any activities that have a conflicting interest or have the appearance of a conflicting interest in the mission and operations of the organization.

4. Standard 1.7. The board must maintain written minutes of formal meetings. Written policies must dictate the frequency of meetings and the quorum requirements for formal meetings.

5. Standard 1.8. The board must ensure that the program complies with its policies and with relevant federal, state, and local laws and regulations.

6. Standard 1.9. The board must designate a person to act as executive director and is to delegate sufficient

authority to the executive director to manage the program, its program staff members, and volunteers.

7. Standard 1.10. The board must conduct an annual performance evaluation of the executive director.

8. Standard 1.11. The executive director will administer day-to-day activities in accordance with these standards and guidelines. The executive director is responsible for directing the program staff members to implement activities to fulfill the program's mission and purpose.

9. Standard 1.12. The board and the executive director must develop a strategic plan for the program.

10. Standard 1.13. The board must inform the department within 48 hours of any changes in their executive director position.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:2121-2128.

HISTORICAL NOTE: Promulgated by the Department of Children and Family Services, Economic Stability Section, LR 44:26 (January 2018).

§6917. DCFS Contract Requirements

A. Guiding Principles. The Department of Children and Family Services (DCFS) requires that all family violence programs meet basic legal and contractual obligations and specify these obligations in the contract. These standards are not inclusive of all the requirements under the contract. The contract will contain a mandatory provision for compliance with DCFS quality assurance standards (see R.S. 46:2122, program creation; R.S. 46:2124, community shelters, funding, services; R.S. 46:2126, programs for victims of family violence, creation; and R.S. 46:2128, eligibility requirements for local family violence programs).

B. Critical Minimum Standards

1. Standard 2.1. The legal structure of the program must permit it to enter into a contract with the state and to abide by federal statutes and regulations. The program must agree to abide by the requirements of the following as applicable to employees, volunteers, and survivors: title VI and VII of the Civil Rights Act of 1964, as amended by the Equal Opportunity Act of 1972; Federal Executive Order 11246; the Federal Rehabilitation Act of 1973, as amended; the Vietnam Era Veteran's Readjustment Assistance Act of 1974; title VIII of the Civil Rights Act of 1968; title IX of the Education Amendments of 1972; the Age Act of 1972; and the Americans with Disabilities Act of 1990. These regulations require that the program act as an equal opportunity employer. The program must not discriminate against anyone seeking employment on the basis of age, sex, race, color, disability, national origin, religion, veteran status, marital status, sexual orientation, abuse status (i.e. battered or formerly battered), or parenthood. Program employees must not discriminate in the provision of services or use of volunteers on the basis of any status described above. No program can discriminate or retaliate against any employee who exercises their rights under any federal or state anti-discrimination law.

2. Standard 2.2. The program must maintain current commercial liability insurance coverage on all program owned vehicles. Staff members and volunteers who transport survivors and their families in their personal vehicles must also maintain appropriate liability insurance coverage.

C. Minimum Standards

1. Standard 2.3. The program must acknowledge DCFS as a funding agent on its program stationary and written material and when providing information about the program.

2. Standard 2.4. The program must inform designated representatives of DCFS prior to initiating any substantial changes to the services that the program provides or to any of the program's physical structures.

3. Standard 2.5. The program must be registered with the Secretary of State and show compliance with that agency's annual reporting requirements.

4. Standard 2.6. The program must not use DCFS funds as direct payment to survivors or dependents.

5. Standard 2.7. The program must not impose income eligibility standards on individuals seeking assistance.

6. Standard 2.8. The program must not accept reimbursement from survivors of domestic violence. All advertising must state that services to survivors and their children are free and confidential.

7. Standard 2.9. Services provided to survivors must include, but are not limited to, emergency shelter or referrals, 24-hour hotline, supportive services, and crisis, peer, educational, and domestic violence counseling.

8. Standard 2.10. The program must secure and maintain insurance that covers both general and professional liability.

9. Standard 2.11. The program must submit accurate and timely reports and budget revisions as required by its contract with DCFS.

10. Standard 2.12. The program must retain all books, records, and other documents relevant to its contract with DCFS and funds expended thereunder for at least four years after its receipt of final payment or for three calendar years after audit issues or litigation have been resolved.

11. Standard 2.13. The service provider must obtain an annual audit of its program within 6 months of ending its fiscal year and submit a copy of the audit to DCFS within 30 calendar days of the audit issuance.

12. Standard 2.14. The program must have a written policy that prohibits it from entering into any agreement involving the payment of public funds to:

a. any member of the governing body or staff member and any members of their immediate family, anyone living in the household as a family member, or to any entity in which the foregoing have any direct or indirect financial interest; or

b. in which any of the foregoing serve as an officer or employee unless the services or goods are provided at a competitive cost or under terms favorable to the program. The program must maintain written records of any and all financial transactions in which a member of the board, staff members, or their immediate family is involved.

13. Standard 2.15. The program must identify the area and population it serves in its brochures.

14. Standard 2.16. The program must maintain accurate statistical data relevant to its services.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:2121-2128.

HISTORICAL NOTE: Promulgated by the Department of Children and Family Services, Economic Stability Section, LR 44:27 (January 2018).

§6919. Confidentiality

A. Guiding Principles. The board of directors, staff members, and volunteers of the family violence program must maintain the highest ethical standards in all areas of the organization's performance and in program implementation. Confidentiality must be guaranteed. The program must implement methods for determining the extent of danger to survivors and develop proper ways to prepare for the future safety of domestic violence survivors (see R.S. 46:2124.1, privileged communications and records; a provision in the federal Family Violence Prevention and Services Act 42 U.S.C. 1042(a)(2)E; Section 40002, of the Violence Against Women and Department of Justice Reauthorization Act of 2005, PL 1009-162, subparagraph (b)(2), non-disclosure of confidential or private information and section 40002(a)(18), personally identifying information or personal information).

B. Critical Minimum Standards

1. Standard 3.1. The program must have policies and procedures that maintain compliance with the confidentiality requirements of the Family Violence Prevention and Services Act (FVPSA) and the Violence Against Women Act of 2005 (VAWA). These include the following specific provisions that require those programs receiving grant funds to:

a. protect the confidentiality and privacy of adults, youth, and child victims of domestic violence, dating violence, sexual assault, or stalking and their families. No individual client information can be revealed without the informed, written, and reasonably time-limited consent of the person about whom information is sought; and

b. have policies and procedures specific to maintaining the confidentiality of information that can be released to the parent or guardian of a non-emancipated minor, to the guardian of a person with disabilities, or pursuant to statutory or court mandate. Federal law provides that consent for release may not be given by the abuser of the minor, the abuser of the other parent of the minor, or the abuser of a person with disabilities.

C. Minimum Standards

1. Standard 3.2. The program must inform individuals served by the program about the nature and scope of confidentiality prior to providing any services.

2. Standard 3.3. The program must have additional policies and procedures that maintain compliance with confidentiality provisions that prohibit the disclosure of personal identifying victim information to any third-party shared data system including the homeless management information system (HMIS).

3. Standard 3.4. The program must ensure that members of the board, staff members, and volunteers sign a written statement agreeing to maintain the confidentiality of all information and records pertaining to those receiving or seeking services through the program.

4. Standard 3.5. When the program finds it necessary to keep the location of its shelter or other facilities confidential, program employees and volunteers are prohibited from disclosing information regarding the location of those facilities except in the following specific cases:

a. to medical, fire, and police personnel when their presence is necessary to preserve the health and safety of survivors, employees, and volunteers at the facility;

b. to vendors and others that programs have business relationships. The executive director or their designee must ensure that written agreements are executed by representatives of such businesses pledging to keep the location of the facility confidential;

c. to any other person, when necessary, to maintain the safety and health standards in the facility. The executive director or their designee may disclose the location of the confidential facility for the purpose of official inspections. These inspections include personnel from the Department of Children and Family Services (DCFS), the Louisiana Coalition Against Domestic Violence (LCADV), state and local fire marshals, and the Louisiana Department of Health (LDH). The executive director may also allow other inspections and maintenance activities necessary to ensure safe operation of the facility;

d. to supportive individuals of a shelter resident who have been approved, at the request of the resident, as a part of case management, who have been prescreened by shelter staff members, and who have signed an agreement to keep the location of the facility confidential. Program staff members must ensure that the individual's presence at the facility does not violate the confidentiality of other shelter residents; and

e. the program must ensure that an individual that is receiving services sign a written statement agreeing to maintain the confidentiality of facility locations and the identities of others who are also provided services by the program.

5. Standard 3.6. When the program finds it unnecessary to keep the location of its shelter or other facilities confidential, the program must notify survivors, in

writing, that the program's facilities are not confidential locations.

6. Standard 3.7. The program must have policies and procedures to ensure that records of services sought or provided to individuals will be held confidential.

7. Standard 3.8. The program must maintain all records which contain personally identifying information in a secure, locked storage area. The program must have policies and safeguards in place to prevent unauthorized access to information identifying individuals seeking or receiving services. This includes all information systems and computer accessible records and documents.

8. Standard 3.9. The program must have policies that allow review and access to records only by program staff members and volunteers as necessary to provide or supervise services, perform grant or audit reporting duties, or to respond to court orders. Programs may identify in their confidentiality policies which specific staff members, as identified by job responsibility and title, will have access to confidential information, records, and information systems.

9. Standard 3.10. The program must ensure that policies and procedures require that staff members' and volunteers' discussions and communications regarding services provided to individuals will occur in appropriate and private locations.

10. Standard 3.11. The program must have policies that ensure that all consent for release of information forms are signed by the person about whom information is to be released. These forms must specifically state:

a. the purpose of the release of information;

b. the specific information that a person receiving services agrees can be released;

c. the person or entity to whom the information is to be released;

d. the date on which the form was signed;

e. clear time limits for the duration of the release of information; and

f. language that clearly indicates that the consent for release of information may be revoked at any time.

11. Standard 3.12. Staff members and volunteers must report suspected abuse of a child or dependent adult. A program must develop policies that address the specific procedures by which program staff members and volunteers will report information about any suspected abuse or neglect of a child or dependent adult according to the Louisiana child and adult protection statutes. (Refer to Louisiana's *Children Code* article, 603 definitions, subparagraph 13, "mandatory reporter" language; article 609 regarding mandatory and permitted reporting; and article 610 regarding the reporting procedure to be utilized; article 611 regarding immunity from civil and criminal liability; article 612 which describes the assignment of reports regarding child abuse and neglect for investigation and assessment; and article 615 regarding the disposition of reports in response to allegations of child abuse or neglect. (See also R.S. 14:403.2 regarding the abuse and neglect of dependent or disabled adults.)

12. Standard 3.13. After the filing of a program initiated abuse report, program staff members must cooperate with child welfare and adult protective services regarding the investigation of the abuse report. This includes assisting child welfare and adult protective service investigators in gaining access to survivors and their children in a manner that maintains the confidentiality of survivors that are receiving services who are not involved in the abuse report. This does not necessitate that staff members release any information that is not relevant to the reported abuse.

13. Standard 3.14. The program must have policies for reporting personally identifying information that may be required in instances of medical emergencies.

14. Standard 3.15. The program must have policies for reporting personally identifying information that is required in instances of threats of suicide or homicide that is communicated to domestic violence staff members and volunteers. Under these circumstances, confidential information may be disclosed to:

a. licensed medical or mental health personnel and facilities;

b. law enforcement personnel;

c. an intended victim; and

d. the parent of a minor child making a threat.

15. Standard 3.16. The program must have policies that include how domestic violence program staff members, volunteers, and the board will respond to summonses, subpoenas, and warrants, and should, whenever possible, provide specific detail allowing for a service of these court orders at a location other than that of the domestic violence program site.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:2121-2128.

HISTORICAL NOTE: Promulgated by the Department of Children and Family Services, Economic Stability Section, LR 44:28 (January 2018).

§6921. Facility Management

A. Guiding Principles. These standards encompass the overall practices and procedures that the program employs to ensure that the facility and grounds that the program leases or owns are appropriately accessible, functional, attractive, safe, and secure for the persons served, visitors, employees, and volunteers. They ensure that the program meets legal requirements and codes for public safety and health.

B. Critical Minimum Standards

1. Standard 4.1. The program must adhere to all applicable zoning, building, fire, health, and safety codes and the laws of the state and of the community in which the organization is located. Programs are annually inspected by the Office of Public Health and the State Fire Marshal.

2. Standard 4.2. Traditional, multifamily, and single family shelters must have monitored security, which may be an electronic security system, security cameras, security guards, or on-site police or sheriff protection.

C. Minimum Standards

1. Standard 4.3. The program must conduct regular evaluations to ensure proper maintenance of the facility's buildings and grounds.

2. Standard 4.4. The program must have a written policy to ensure that serious incidents, such as those that require the services of a licensed medical professional or law enforcement agency, are properly documented and reconciled. Serious incidents must be reported to appropriate authorities.

3. Standard 4.5. The program must have a policy that it will only house the number of people in its residential facilities that can be adequately served and that the number served cannot surpass the building capacity that is set by the state fire marshal.

4. Standard 4.6. The program must have space to provide private and confidential services.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:2121-2128.

HISTORICAL NOTE: Promulgated by the Department of Children and Family Services, Economic Stability Section, LR 44:29 (January 2018).

§6923. Financial Management and Fund Development

A. Guiding Principles. The board, the executive director, and other specified staff members share the responsibility for fiscal management. The board has the final legal responsibility for financial matters and should set policies, oversee the raising of revenue, approve annual budgets, and monitor finances throughout the year. The board should authorize the executive director to plan and implement procedures that carry out the fiscal policies while ensuring internal control so that no single individual directs all of the organization's day-to-day financial activities. Staff members that are assigned financial responsibilities are to make regular reports to the board.

B. Critical Minimum Standards

1. Standard 5.1. The program must comply with all financial regulations, such as earnings withholding and payment of federal, state, and Social Security taxes and the management and use of restricted funds.

2. Standard 5.2. The program must complete and submit the annual IRS Form 990 in a timely, accurate manner and include specific information about the relevant year's activities and outcomes.

3. Standard 5.3. The program's board of directors must ensure that its financial statements are audited, certified, and prepared in accordance with sound accounting practices. The audit must be completed within six months of the close of the organization's fiscal year.

C. Minimum Standards

1. Standard 5.4. Consistent, timely, and accurate financial reports must be prepared on a quarterly basis by the individuals responsible for the organization's financial reporting. These reports should consist of a balance sheet and profit/loss statement and be approved by the board during official board meetings.

2. Standard 5.5. The program must ensure separation of financial duties to serve as a checks and balances system to prevent theft, fraud, and inaccurate reporting. This system should be appropriate to the size of the organization's financial and human resources.

3. Standard 5.6. The board must adopt written financial procedures to monitor major expenses including payroll, travel, investments, expense accounts, contracts, consultants, and leases.

4. Standard 5.7. The program must periodically assess their risks and purchase appropriate levels of insurance to prudently manage their liabilities.

5. Standard 5.8. The board must set the compensation level for the organization's executive director. Minimum wage standards and labor laws related to overtime pay must be followed.

6. Standard 5.9. The executive director and appropriate board members must jointly create a budget that is then presented to the full board for approval. The board should be provided with quarterly budget updates.

7. Standard 5.10. The board must have members that clearly understand how to read and interpret financial statements.

8. Standard 5.11. The board must strictly prohibit financial loans to board members, the executive director, and all organization personnel.

9. Standard 5.12. The program must provide bonding of staff or adequate insurance for employees responsible for financial resources.

10. Standard 5.13. Generally accepted accounting procedures and practices must be implemented as required by the terms of the Department of Children and Family Services (DCFS) contract.

11. Standard 5.14. The program must follow the directives for nonprofit organizations found in the Federal Office of Management and Budget (OMB) Super Circular 2 CFR 200.

12. Standard 5.15. The program must comply with all federal, state, and local laws concerning fundraising practices.

13. Standard 5.16. The program must conduct their fundraising activities in a manner that upholds the public's trust in stewardship of contributed funds. Fundraising communications should include clear, accurate, and honest information about the organization, its activities, and the intended use of funds.

14. Standard 5.17. The board shall have overall responsibility for raising sufficient funds to meet budgeted objectives.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:2121-2128.

HISTORICAL NOTE: Promulgated by the Department of Children and Family Services, Economic Stability Section, LR 44:29 (January 2018).

§6925. Staff Management

A. Guiding Principles. These standards encourage strong professional values. Relevant goals, objectives, and plans must be established for staff and volunteer administration.

B. Critical Minimum Standards

1. Standard 6.1. The program must have written personnel policies that comply with employment law and prohibit discrimination based on race, ethnicity, color, gender, sex, age, sexual orientation, disability, including substance abuse, economic or educational status, religion, HIV/AIDS or health status, and national origin.

2. Standard 6.2. Employees, program staff members, volunteers, and other personnel responsible for the actions of one or more persons and who have been given or have applied to be considered for a position of supervisory or disciplinary authority over children, with the permission of said person, must have a criminal history record check through the Bureau of Criminal Identification and Information before starting employment (see R.S. 15:587.1, provision of information to protect children and R.S. 15:587.3, volunteers and employees in youth-serving organizations; background information).

C. Minimum Standards

1. Standard 6.3. The program must have job descriptions for all positions. Job descriptions must include the required qualifications for each position and the program shall only employ individuals that meet or exceed the required qualifications.

2. Standard 6.4. The program must have written policies and procedures regarding the recruitment, screening, hiring, and dismissal of employees and identify which personnel will be responsible for hiring and terminating employees.

3. Standard 6.5. The program must conduct annual performance evaluations for all employees.

4. Standard 6.6. The program must maintain a confidential file for each staff member that includes, but is not limited to, application, resume, criminal background check, licenses and certifications, if applicable, reference checks, and a signed confidentiality statement.

5. Standard 6.7. The program may use unpaid volunteers to augment the program's direct and indirect services that are provided by paid staff members.

6. Standard 6.8. The program must have written volunteer policies and procedures regarding the recruitment, screening, training, recognition, supervision, and dismissal of volunteers used to provide direct and indirect services. Such policies must clarify the roles and responsibilities of volunteers in the program's provision of service with specific detail addressing professional boundaries, disclosure, and how, when, where, and the frequency with which volunteers will be used.

7. Standard 6.9. The program must have written job descriptions for each type of volunteer position that follows the same format of job descriptions for paid staff members. Job descriptions must be provided to volunteers upon acceptance into the program.

8. Standard 6.10. The program must maintain a confidential file for each volunteer that shall include, but not be limited to, application, criminal background check, licenses and certifications, if applicable, reference checks, a signed confidentiality statement, and a record of all trainings completed by a volunteer working directly with clients.

9. Standard 6.11. A written grievance policy must be provided to employees and volunteers.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:2121-2128.

HISTORICAL NOTE: Promulgated by the Department of Children and Family Services, Economic Stability Section, LR 44:30 (January 2018).

§6927. Training

A. Guiding Principles. These standards encourage strong professional values. Relevant goals, objectives, and plans must be established for staff and volunteer administration.

B. Critical Minimum Standards

1. Standard 7.1. Training shall be required for all individuals associated with the program. This includes board members, program staff members, and volunteers. Prior to working alone with clients, new staff members and volunteers must complete a minimum of 40 hours of training and must thereafter, annually complete a minimum of 30 hours of family violence training. The training curriculum should be compatible with the Louisiana Coalition Against Domestic Violence (LCADV) training manual or include the following topics:

a. historical perspective on the movement to end violence against women;

b. introduction to domestic violence;

c. confidentiality;

d. introduction to cultural competency;

e. introduction to survivor centered advocacy;

f. ethics in advocacy;

g. the impact of domestic violence on children;

h. civil legal and criminal procedure;

i. advocacy skills;

j. skills development; and

k. trauma informed care.

C. Minimum Standards

1. Standard 7.2. The 40-hour training program may be accomplished through a combination of:

a. group instruction using a variety of training techniques including role playing, other experimental exercises, and audio-visual materials;

b. one-on-one instruction and discussion with a fully trained, experienced advocate or supervisor;

c. shadowing a fully trained, experienced advocate performing job duties such as hotline coverage and intake procedures;

d. a practicum (A *practicum* is defined as a supervised activity meant to develop or enhance the trainee's ability to provide direct services.);

e. audio-visual materials may be used provided the trainee can discuss the information with a fully trained, experienced advocate or facilitator following the activity; and

f. a training manual that is given to each participant from which reading assignments can be made provided the trainee can discuss the information with a fully trained, experienced advocate or facilitator following the activity.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:2121-2128.

HISTORICAL NOTE: Promulgated by the Department of Children and Family Services, Economic Stability Section, LR 44:31 (January 2018).

§6929. Eligibility

A. Guiding Principles. These standards seek to ensure the availability and equal provision of services to family violence survivors and their dependents. These standards also define circumstances and situations that could render a survivor ineligible for program services.

B. Critical Minimum Standards

1. Standard 8.1. The program must provide services regardless of race, religion, color, national origin, gender, age, mental or physical disability, sexual orientation, citizenship, immigration status, marital status, or language spoken. The program must assist and accommodate persons with mental or physical special needs. Assistance shall be provided through coordinated efforts between family violence program staff members and other identified service providers.

C. Minimum Standards

1. Standard 8.2. Persons that are eligible for services shall include family violence, domestic violence, and dating violence survivors and their dependents. Eligible persons include adults, legally emancipated minors, minors granted permission for services by a parent, a guardian, a judge's orders, or caretakers of eligible persons. In the event that a non-emancipated minor seeks services, the program must acquire parental permission prior to providing any services. No dependent males or females that are with their parent or guardian shall be denied access to services.

a. Those eligible for services include survivors who may be in imminent danger of being abused by their current or former intimate partner or family member, those who are in danger of being emotionally, physically, or sexually abused, and survivors who have no safe place to go.

b. The program must provide comparable services to eligible male survivors.

2. Standard 8.3. Upon initial contact with survivors, program staff members must complete an assessment which will cover the following:

a. eligibility for support and intervention services;

b. immediate safety issues;

c. batterer's potential for lethality;

d. ensure that the person requesting services is the survivor and not the perpetrator;

e. special needs based on a disability;

f. special needs based on the requirements of a person's self-identified religious, cultural, ethnic, geographic, and other affiliations; and

g. other appropriate services.

3. Standard 8.4. The program must develop and provide a written grievance policy that must be given to every survivor upon admission to services. The policy shall include procedures to follow in the event a survivor:

a. believes they have been unjustly denied services;

b. is dissatisfied with the quality of services; or

c. is dissatisfied with the behaviors of a staff member or volunteer.

4. Standard 8.5. Survivors may be denied shelter services or be ineligible for other program services. In these instances, the program must, as soon as possible, inform survivors seeking services of the criteria that may render them ineligible for services. This standard is intended to guard against a survivor discovering she or he is ineligible for services when they have already risked leaving their abuser. Information and referrals are to be made for other appropriate services.

a. When the program cannot admit new survivors to a shelter due to capacity, every effort must be made to secure and facilitate admission to safe alternative accommodations (see §6947, standard 17.21).

b. If it is determined that a person is ineligible for services after admission to a shelter, program staff must refer the person to other appropriate services and assist the person to access transportation to receive the other appropriate services.

5. Standard 8.6. The extent to which eligibility can affect the long-term or future eligibility for services must be

evaluated and documented on a case-by-case basis. Examples of ineligibility criteria include:

a. not an adult or emancipated minor or a minor granted permission; and

b. exhibits signs of suicidal or homicidal behaviors.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:2121-2128.

HISTORICAL NOTE: Promulgated by the Department of Children and Family Services, Economic Stability Section, LR 44:31 (January 2018).

§6931. Safety Planning

A. Guiding Principles. These standards require that family violence programs establish common quality intervention services. Participation in intervention services shall be voluntary.

B. Critical Minimum Standards

1. Standard 9.1. The program must provide a program staff member to be available 24-hours a day to assist survivors of family violence with assessing levels of danger and lethality and to assist them in developing a personal plan for safety.

C. Minimum Standards

1. Standard 9.2. Safety planning must meet the needs of the survivor.

2. Standard 9.3. The program must develop a protocol for safe travel of survivors. Protocols must contain provisions for survivor travel to programs for crisis intervention, shelter, and other support services. Furthermore, the protocols shall reflect the survivor's need for local travel whether provided by themselves, the program, or public and private carriers.

3. Standard 9.4. Safety planning must include a danger and lethality assessment to determine the survivor's immediate level of danger. Trained advocates must complete the assessment and document the assessment in the survivor's case record.

4. Standard 9.5. Safety planning is an on-going process during shelter stays and advocacy participation. Program staff must provide additional safety planning for survivors during periods of increased risk such as when filing court documents, attending court hearings, exiting the shelter, or any other strategic move by the survivor or abuser.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:2121-2128.

HISTORICAL NOTE: Promulgated by the Department of Children and Family Services, Economic Stability Section, LR 44:32 (January 2018).

§6933. Hotline

A. Guiding Principles. These standards require that family violence programs establish common quality intervention services. Participation in intervention services shall be voluntary.

B. Critical Minimum Standards

1. Standard 10.1. The program must operate a 24-hour, 7 days a week hotline. The hotline must be answered by a program staff member or volunteer who has had training on crisis intervention and trauma informed approaches to hotline calls.

C. Minimum Standards

1. Standard 10.2. The program must have a minimum of two telephone lines. One of the lines must be the designated hotline. Programs that employ the use of caller identification equipment or telephone services in conflict with the spirit of anonymity must, as a condition of informed consent, inform callers of the use of such equipment.

2. Standard 10.3. Hotlines must be equipped with call blocking to safeguard against caller identification and call back services.

3. Standard 10.4. Hotline services must provide emergency telephone crisis intervention and advocacy. These services include:

a. crisis intervention;

b. assessment of caller's needs;

c. emergency protocols;

d. lethality and danger assessment;

e. information and referrals to available community resources;

f. safety planning; and

g. listening to and validating the caller's experience.

4. Standard 10.5. Hotline services must include the provision of education and information about:

a. the nature and dynamics of domestic violence;

b. how batterers maintain control and dominance over their victims;

c. the need to hold batterers accountable for their actions;

d. the recognition that individuals victimized by domestic violence are responsible for their own decisions and that batterers are responsible for their violent behavior; and

e. trauma.

5. Standard 10.6. Hotline calls must be documented on an appropriate form that denotes each hotline call, the services offered to the survivor, any referrals made on behalf of the survivor, any information received in calls from professionals or third parties, and a plan of action to be taken.

6. Standard 10.7. Staff members answering hotline calls must ensure that all calls are answered immediately and must ensure accessibility for all callers.

7. Standard 10.8. Hotlines must be answered using the name of the family violence program.

8. Standard 10.9. Staff members and volunteers must answer the hotline in a place that is quiet, free of distractions, and confidential. If possible, the hotline should be in a private office.

9. Standard 10.10. The hotline number must be listed in the local telephone directory, be widely distributed, and be available from local telephone information services.

10. Standard 10.11. When holding or transferring hotline calls the staff member must:

a. complete an initial assessment as to the immediate danger to the survivor before putting the caller on hold;

b. check back with callers on hold within two minutes; and

c. prioritize calls using safety and lethality assessments.

11. Standard 10.12. Survivors of domestic violence who are deaf or hard of hearing must have equal access to the hotline.

12. Standard 10.13. The program must have written procedures on how advocates will respond to a limited English proficiency (LEP) individual.

13. Standard 10.14. A hotline shall not be answered by an automated call-routing machine, an answering machine, or an answering service.

14. Standard 10.15. The program must maintain a staffing schedule that provides staff members or volunteers access to a supervisor or their designee as a back-up during hotline coverage.

15. Standard 10.16. If either party is using a cellular telephone, the caller must be made aware that confidentiality cannot be guaranteed. All hotline telephones must have a call waiting feature.

16. Standard 10.17. If call forwarding is used to ensure proper staffing of the hotline, it is the responsibility of the program staff members to ensure safety and confidentiality.

17. Standard 10.18. After hours, on weekends, and on holidays, administrative and outreach telephones must be answered by devices that clearly direct callers to the hotline number.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:2121-2128.

HISTORICAL NOTE: Promulgated by the Department of Children and Family Services, Economic Stability Section, LR 44:32 (January 2018).

§6935. Information, Outreach, and Community Education

A. Guiding Principles. These standards require that family violence programs establish common quality intervention services. Participation in intervention services shall be voluntary.

B. Minimum Standards

1. Standard 11.1. The program must maintain a current listing of traditional and nontraditional community resources including:

a. emergency service telephone numbers;

b. housing alternatives;

c. medical and health care services including dentistry;

d. legal services;

e. alcohol and drug related services;

f. translation and interpreter services;

g. child protective and welfare related services;

h. housing options and resources;

i. services for those individuals with physical or cognitive disabilities;

j. lesbian, gay, bisexual, transgender, and questioning (LGBTQ) support services;

k. counseling services for adults and children;

l. emergency and other transportation services;

m. continuing education and job training;

n. child care services and parenting education;

o. batterer intervention services;

p. consumer, credit, and financial services;

q. adolescent services and programs;

r. elderly support services;

s. school based services; and

t. victim and witness programs.

2. Standard 11.2. The program must take an active role in developing and maintaining on-going relationships with the following community partners:

a. child protective services;

b. court personnel;

c. law enforcement agencies;

d. the Council on Aging;

e. local schools; and

f. Temporary Assistance for Needy Families (TANF) assistance programs.

3. Standard 11.3. The program must actively endeavor to increase awareness of their services to survivors of domestic violence in their service areas.

4. Standard 11.4. The program must provide outreach activities to the ethnic, cultural, and religious diversity of

battered women and other victims of domestic violence in their service area. The program must also provide outreach activities to domestic violence victims in traditionally underserved populations.

5. Standard 11.5. Outreach services must be accessible in all service areas of a program. At a minimum, programs must:

a. ensure that the hotline number is widely distributed in the outreach areas; and

b. provide a staff member, when possible, to meet in person and as needed with survivors in outreach areas;

c. conduct public awareness, education, and training activities in outreach areas.

6. Standard 11.6. The program must provide education and prevention programs and information to the local community. Programs should be actively involved in educating individuals, community organizations, and service providers concerning domestic violence dynamics, the prevalence of domestic violence, and the need for survivor safety.

7. Standard 11.7. The program must provide educational assistance to professionals, community groups, and organizations in the local community about the dynamics and extent of domestic violence and the resources that are available from the program. These groups include:

a. law enforcement agencies;

b. health care providers;

c. clergy;

d. school professionals;

e. mental health professionals;

f. social service providers;

g. business community leaders;

h. civic groups;

i. community groups; and

j. religious groups.

8. Standard 11.8. The program must have written materials in alternative formats to meet the needs of survivors with visual, hearing, or cognitive disabilities and materials for non-English speaking survivors.

9. Standard 11.9. The program must conduct community education, consultation, and training.

a. Programs should take a leadership role in their local community in identifying systems and organizations that affect the prevention and treatment of domestic, family, and dating violence.

b. Programs are to attempt to change institutional practices that again victimize survivors or that place survivors' safety at risk.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:2121-2128.

HISTORICAL NOTE: Promulgated by the Department of Children and Family Services, Economic Stability Section, LR 44:33 (January 2018).

§6937. Crisis Intervention

A. Guiding Principles. These standards require that family violence programs establish common quality intervention services. Participation in intervention services shall be voluntary.

B. Minimum Standards

1. Standard 12.1. Crisis intervention services must be provided by a qualified, trained staff member or volunteer using a trauma informed approach.

2. Standard 12.2. Crisis intervention services must be primarily focused on the provision of information, advocacy, safety planning, and empowerment.

3. Standard 12.3. Crisis intervention services must be based upon a problem solving model to provide information and referrals that assist an individual or family in crisis. Crisis intervention services include:

a. assessing risk and danger;

b. assessing needs;

c. identifying major obstacles and barriers;

d. safety planning;

e. providing referrals, as requested, to community resources such as shelters, attorneys, and medical providers;

f. providing information about available legal remedies;

g. exploring possible options to support safety;

h. formulating an action plan; and

i. validating the survivor's feelings.

4. Standard 12.4. Goals for crisis intervention services shall be defined as interactions that:

a. stabilize emotions;

b. clarify issues; and

c. provide support and assistance.

5. Standard 12.5. A program that offers crisis intervention services must provide services to both shelter residents and nonresidents.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:2121-2128.

HISTORICAL NOTE: Promulgated by the Department of Children and Family Services, Economic Stability Section, LR 44:34 (January 2018).

§6939. Individual Service Planning

A. Guiding Principles. These standards require that family violence programs establish common quality

intervention services. Participation in intervention services shall be voluntary.

B. Minimum Standards

1. Standard 13.1. In collaboration with survivors, the program must develop an individualized service plan for the purpose of assessing needs, identifying priorities, setting goals, implementing progress toward goals, and locating resources.

2. Standard 13.2. Individual service planning must be provided by qualified, trained staff members or volunteers who are required to be trained in the practice and dynamics of trauma informed care.

3. Standard 13.3. An advocate providing individual service planning must have access to and be familiar with a complete list of community resources. They should also be expected to establish working relationships with other service providers.

4. Standard 13.4. An advocate must provide individual service planning and should assist the person with identifying the person's own needs, available resources and services, and provide assistance in obtaining those services. Individual planning services shall be survivor driven.

5. Standard 13.5. An advocate providing individual service planning must assume a coordinating role using a voluntary services approach and facilitate the provision of services provided by other organizations and professionals in a coordinated and collaborative manner while complying with federal laws regarding confidentiality.

6. Standard 13.6. An advocate must facilitate service delivery and referrals and encourage ongoing communication with the providers of additional services that includes:

a. ongoing and long-term safety planning;

b. medical, nutritional, and health services;

c. counseling for individuals, children, and family;

d. law enforcement assistance;

e. civil legal remedies and services;

f. public assistance services, including job training and support services;

g. short-term, transitional, and permanent housing;

h. child care services and parenting education;

i. child protection services;

j. alcohol and drug evaluation and education;

k. alcohol and substance abuse treatment services;

l. services for persons with disabilities;

m. transportation assistance;

n. education, continuing education, high school equivalency test (HiSET), and literacy services;

o. lesbian, gay, bisexual, and transgendered support services;

p. interpreter and translation services and immigration assistance;

q. financial planning and consumer rights information and services; and

r. other related services as needed.

7. Standard 13.7. Advocacy contacts made on behalf of survivors to individuals or groups outside of the family violence program must not be initiated without the survivor's direct permission. A release of confidential information form must be used to document the survivor's approval.

8. Standard 13.8. Programs must provide individual service planning to shelter residents and nonresidents.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:2121-2128.

HISTORICAL NOTE: Promulgated by the Department of Children and Family Services, Economic Stability Section, LR 44:34 (January 2018).

§6941. Support Groups

A. Guiding Principles. These standards require that family violence programs establish common quality intervention services. These standards value an individual response, collaboration, thoughtful evaluation, careful stewardship, and unconditional positive regard through a trauma informed approach. Participation in intervention services shall be voluntary.

B. Critical Minimum Standards

1. Standard 14.1. The program must provide group interactions facilitated by program staff members to address the emotional needs of adult and child users of services. These services include crisis, peer, supportive, educational, and domestic violence counseling.

C. Minimum Standards

1. Standard 14.2. Interactive group sessions must be topic oriented, informational, educational, and survivor directed. Sessions must be facilitated by qualified, trained program staff members and volunteers. Staff members and volunteers facilitating the support group must have at least 40 hours of domestic violence training education and experience in group facilitation and group dynamics for peer-to-peer led groups in trauma informed, culturally, and linguistically appropriate approaches.

2. Standard 14.3. The program must provide at least one weekly support group session for adult participants. As resources allow, the program will provide child care or a children's support group session during the time the adult support group meets.

3. Standard 14.4. The support group facilitator must discuss the requirement of maintaining confidentiality during the support group session. The facilitator must then ensure that all individuals attending the group session sign a

written statement agreeing to maintain the confidentiality of others attending the group session.

4. Standard 14.5. A program that provides support group services may provide:

a. open support groups which accept new members at any time; and

b. closed support groups which do not add new members for a specified period of time.

5. Standard 14.6. Support group services, which differ from professional group therapy, must provide support that addresses the needs identified by those attending the group session that includes:

a. safety planning;

b. active and reflective listening;

c. problem solving;

d. building self-esteem;

e. information about available legal remedies; and

f. information about available community resources.

6. Standard 14.7. Support group services must provide education and information about:

a. how batterers maintain control and dominance;

b. the need to hold batterers accountable for their actions;

c. the recognition that individuals victimized by domestic violence are responsible for their own decisions and that batterers are responsible for their violent behavior;

d. the role of society in perpetuating violence against women and the social change necessary to eliminate violence against women, including the elimination of discrimination based on ethnicity, color, gender, age, sexual orientation, disabilities, including substance abuse, economic or educational status, religion, HIV/AIDS or health status, or national origin; and

e. the traumatic effect of abuse.

7. Standard 14.8. The program must provide support groups to both residential and nonresidential survivors including former residents.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:2121-2128.

HISTORICAL NOTE: Promulgated by the Department of Children and Family Services, Economic Stability Section, LR 44:35 (January 2018).

§6943. Services for Children

A. Guiding Principles. These standards require that family violence programs establish common quality intervention services. Participation in intervention services shall be voluntary.

B. Critical Minimum Standards

1. Standard 15.1. Each program must have a written policy prohibiting the use of corporal punishment on children by either the parent or the provider of care while a family is residing in a shelter. Parents must be provided a copy of the policy.

C. Minimum Standards

1. Standard 15.2. The program must recognize the special needs of survivors' children and provide services specific to them.

2. Standard 15.3. All in-person services for children must be provided at the request of the guardian and with the guardian's permission.

3. Standard 15.4. Family violence programs must provide children services to both residential and nonresidential children.

4. Standard 15.5. The program must provide the following services for children:

a. child intake and assessment;

b. safety planning with the parent and child;

c. individual planning and support contacts;

d. advocacy with outside systems;

e. information and referral services;

f. support groups and/or play groups;

g. information about domestic violence and trauma in an age appropriate manner; and

h. an orientation for children residing in a shelter.

5. Standard 15.6. Children services must be provided by qualified, trained staff members or volunteers that are trained in the following:

a. the developmental stages of childhood, including physical, social, cognitive, and emotional stages;

b. developmentally appropriate ways of working with children;

c. a working knowledge of family violence and its effects on survivors and children;

d. positive discipline techniques;

e. nonviolent conflict resolution;

f. the warning signs of abuse;

g. appropriate methods for interviewing children who have disclosed abuse;

h. trauma informed care; and

i. a working knowledge of the child welfare system.

6. Standard 15.7. Children services must include the use of child support groups.

a. Support groups are a time to allow children to play in a safe, structured environment. The support group is

to be based on a developmentally appropriate philosophy. While the support group is planned and facilitated by a child advocate, the children direct their own progress in the group. This empowers the child, offers the child a safe and appropriate place to say "No," and teaches consistency, structure, and nonviolent conflict resolution.

b. The goals of the children's support group are to break the silence about abuse, to learn how to protect oneself, to have a positive experience, and to strengthen self-esteem and self-image.

7. Standard 15.8. Program staff members must make available to the child's parent education, support, and access to resources. Child advocates must be available to meet with each parent at least once a week in individual sessions to provide information and support to ensure that:

a. information is available and provided to parents about domestic violence and its complex effect on parents and their children; and

b. provides the child's parent with nonviolent options for disciplining his or her child.

8. Standard 15.9. The program must have in place a way to provide and arrange transportation to attend school for a child in residence.

9. Standard 15.10. Access to child care options must be provided to residential families. Situations in which child care options may be provided include:

a. during the parent's intake;

b. during support group sessions;

c. when the parent may be looking for housing or employment;

d. when the parent is in counseling;

e. while the parent is meeting with attorneys and attending court proceedings; and

f. during all appointments and meetings in which caring for the child could be disruptive or when the child might overhear the parent talking about his or her abuse.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:2121-2128.

HISTORICAL NOTE: Promulgated by the Department of Children and Family Services, Economic Stability Section, LR 44:35 (January 2018).

§6945. Court Advocacy

A. Guiding Principles. These standards require that family violence programs establish common quality intervention services. Participation in intervention services shall be voluntary.

B. Critical Minimum Standards

1. Standard 16.1. The program must provide court advocacy to assist survivors in receiving self-identified interventions and actions sought from civil and criminal justice systems. The program must also provide information about legal options so that self-identification of needed interventions can occur.

C. Minimum Standards

1. Standard 16.2. Court advocacy services must ensure that appropriate staff members and volunteers have a working knowledge of current state and federal laws pertaining to domestic violence and how the local justice system responds to domestic violence cases including the local court rules in each parish where services are provided.

2. Standard 16.3. Court and legal advocacy must be provided by qualified, trained staff members and volunteers who:

a. offer support to survivors seeking relief through the courts;

b. help survivors understand court actions; and

c. provide information that enables the survivor to make informed decisions about court actions, decisions, and processes.

3. Standard 16.4. Programs offering court advocacy services must maintain a clear distinction between legal advice and legal information. The program must strictly monitor and prohibit staff members and volunteers from practicing law or providing legal representation if they are not properly certified to engage in such legal practices.

4. Standard 16.5. Court advocacy services must maintain current referral lists for survivors that include:

a. local criminal and civil justice agencies and contact persons in each parish where services are provided; and

b. local, state, and national resources for certain legal issues such as immigration, interstate child custody, identity, relocation, etc.

5. Standard 16.6. Court advocacy services must be provided to both shelter residents and nonresidents.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:2121-2128.

HISTORICAL NOTE: Promulgated by the Department of Children and Family Services, Economic Stability Section, LR 44:36 (January 2018).

§6947. Shelter

A. Guiding Principles. These standards require that family violence programs establish common quality intervention services. Participation in intervention services shall be voluntary.

B. Critical Minimum Standards

1. Standard 17.1. The program must provide access, admittance, and residence, including transportation to a temporary shelter, or other accommodations for victims of domestic violence and their male and female children, 0 to 18 years of age, 24-hours a day, every day of the year.

2. Standard 17.2. The shelter must not discriminate against survivors by limiting the number of times of re-entry

into the shelter or by requiring a time limit between re-entries into the shelter. The program must not maintain a "no readmit" list, however, it is permissible to maintain a "not admit at this time" list if admittance of a survivor is not currently appropriate. This information is to be documented in the survivor's file. Reentry is based on the current needs of a survivor and is not based on past situations.

C. Minimum Standards

1. Standard 17.3. Shelter services may be provided through any of the following types of accessible housing:

a. a physical shelter facility operated by a program that primarily serves domestic violence survivors; and

b. other shelter accommodations such as time limited motel or hotel placement and other direct placement programs that provide safe housing that is arranged through a program staff member.

2. Standard 17.4. A program that provides shelter services as defined in Standard 17.3 must ensure that all types of services are accessible and culturally and linguistically appropriate. Domestic violence programs that provide safe shelter at locations separate from and/or in addition to the primary shelter facility must ensure that those accommodations are safe and that survivors have access to program staff, a telephone, the program's hotline telephone number, bathroom facilities, and locking doors.

3. Standard 17.5. A physical shelter facility must provide on-site staff member coverage 24-hours a day, 7 days a week.

a. Programs that provide shelter through other shelter accommodations must ensure that survivors living in those accommodations have access to program staff 24 hours a day, 7 days a week.

4. Standard 17.6. Programs must have written procedures regarding their shelter intake process. The program must have procedures relative to serving adult male survivors of domestic violence seeking emergency shelter. Male survivors are to be provided with the same level of services as provided to female survivors. Services may be provided in an alternate setting such as a hotel.

5. Standard 17.7. A shelter must provide a back-up staffing system for use during emergencies. A supervisor or designee must be available via a cellular telephone or in some manner that allows for an immediate response. The program must have written protocols that define criteria and steps for using the back-up system.

6. Standard 17.8. A program providing shelter services as defined in standard 17.3 must:

a. have written policies and procedures to ensure the safety and security of residents;

b. ensure that crisis intervention services are voluntary, accessible, available, and offered 24-hours a day with trained on-site advocates to provide face-to-face emergency services;

c. provide, free of charge, emergency food, clothing, and personal hygiene items for residents and their children;

d. provide a personal locker or cabinet that can be locked by a key or combination in which to place their medications and other items of value;

e. provide access to some form of public or private transportation to and from the facility, to other service providers, and to court;

f. not require residents to participate in religious groups or to use religious materials; and

g. offer accommodations to individuals with disabilities.

7. Standard 17.9. A domestic violence program providing shelter services as defined in standard 17.3 must ensure that the staff members and volunteers:

a. are trauma informed or are knowledgeable about trauma and participate in on-going training on how to offer trauma informed support;

b. have immediate face to face contact with a new resident admitted to a shelter to determine emergency needs and to orient the survivor to the program and its procedures;

c. initiate a face to face intake process with a new resident's admission to the shelter; and

d. sign a written agreement with each survivor about services to be provided by the shelter which includes:

i. services to be provided by the program, it staff members, and volunteers;

ii. confidentiality rights and agreements including records and accessibility;

iii. communal living arrangements, resident's rights, and privacy matters; and

iv. length of stay policies and the criteria that may affect the survivor's stay.

8. Standard 17.10. Programs that provide a physical shelter facility must ensure that staff members and volunteers are trained in the dynamics of communal living including:

a. conflict resolution;

b. facilitating group dynamics; and

c. parent and child dynamics and interactions.

9. Standard 17.11. Shelters must develop guidelines that promote communal living. The purposes of the guidelines are for protection, safety, and health. Guidelines must include the shelter's policies on confidentiality, child abuse reporting, nonviolence, weapons, drugs, alcohol, food areas, smoking areas, medications, childcare, and safety.

10. Standard 17.12. Programs must develop a written policy demonstrating how repetitive substance or alcohol use or the demonstration of behaviors incongruent with

community living may affect their continued stay in the shelter.

11. Standard 17.13. Shelter management staff members must hold regular meetings to facilitate communal living.

12. Standard 17.14. Shelters must establish a length of stay policy that is flexible and that balances the needs of survivors and the program's ability to meet those needs. Programs that offer a physical shelter facility must offer shelter for a minimum period of six weeks with optional extensions. Programs that utilize hotels and motels must offer a minimum length of stay of four nights and facilitate a stay in a traditional, multifamily, or single family program for longer periods.

13. Standard 17.15. Survivors must be informed, in writing, of the minimum length of stay policy and of any criteria that may impact or shorten their stay in the facility.

14. Standard 17.16. Lengths of stay extensions are contingent on the survivor's progress toward meeting self-identified goals. Programs must have a process for determining extensions. When a request for an extension is denied, the reasons are to be documented in the survivor's case file and shared with the survivor in sufficient time for the survivor to make alternative arrangements. Participation in a support group may not be used as a criterion for granting length of stay extensions.

15. Standard 17.17. Any type of firearm or weapon shall be prohibited in the facility. Program staff members must include in their assessment for services appropriate questions to identify those survivors who may possess firearms or other weapons and assist them in making arrangements for them to be stored at a different location.

16. Standard 17.18. The program must have clearly defined policies for the involuntary termination of services. Shelter programs must make every effort to work with a survivor in order for the survivor to remain in the shelter, except for situations that compromise the safety of others or of the shelter such as:

a. the use of violence or threats of violence;

b. the use of behavior that repeatedly disrupts the ability of other survivors and their children to receive safe and effective services;

c. possession of illegal substances;

d. possession of a firearm or any other weapon that may threaten a life accidentally or intentionally;

e. active suicidal or homicidal behaviors; and

f. violating the confidentiality of another resident.

17. Standard 17.19. The program demonstrates its efforts to keep survivors eligible for shelter services through the documentation of attempts to assist the survivors and/or their children with problematic or disruptive behaviors:

a. demerit and warning systems are not to be used; and

b. the program must respect the survivor's right to privacy in their person, property, communications, papers, and effects. Survivors are not to be subjected to unwarranted or unreasonable searches by shelter staff of their person, room, or property. However, circumstances may arise where some form of search may be necessary to protect the health and safety of shelter residents and staff. Survivors must be informed during intake of the circumstances under which such searches may occur.

18. Standard 17.20. Each residential survivor is to be assigned an advocate. This staff person must be available to meet with the survivor three times a week for the purpose of individual service planning and counseling. Survivors must be notified, in writing, that they will have at least one hour per day, three days a week, of available individual sessions.

a. If the survivor's assigned advocate is not available, the program must ensure that an alternate staff advocate is available to meet with the survivor.

19. Standard 17.21. Shelter staff members must assist survivors requesting emergency safe shelter in obtaining other temporary shelter if the primary shelter facility is at capacity. The required minimum assistance to be offered by staff members of the domestic violence shelter in this situation is the provision of information and referrals to obtain alternative safe shelter and notice of the right to call back for additional assistance. Staff members and volunteers may make contact with another shelter or service and provide this resource to the survivor.

20. Standard 17.22. When an alternative safe shelter is located, it is the responsibility of the domestic violence program to provide transportation to the alternative shelter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:2121-2128.

HISTORICAL NOTE: Promulgated by the Department of Children and Family Services, Economic Stability Section, LR 44:37 (January 2018).

§6949. Other Shelter Accommodations

A. Guiding Principles. These standards require that family violence programs establish common quality intervention services. Participation in intervention services shall be voluntary.

B. Minimum Standards

1. Standard 18.1. Alternatives to a shelter facility may include hotel and motel placement as a source of safe shelter in circumstances that include:

a. the shelter services program does not have a physical shelter facility available;

b. the physical shelter facility is at capacity and no space is available for those seeking emergency safe shelter;

c. the distance between the individual or family seeking safe shelter and the shelter facility prohibits immediate access to the facility;

d. the individual or family seeking safe shelter has special needs best served by shelter provision through a hotel or motel placement; and

e. the former resident of the shelter facility no longer needs primary shelter but would benefit from program managed subsidized or transitional housing services that are offered through a temporary hotel or motel placement.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:2121-2128.

HISTORICAL NOTE: Promulgated by the Department of Children and Family Services, Economic Stability Section, LR 44:38 (January 2018).

§6951. Documentation of Services

A. Guiding Principles. These standards require that family violence programs establish common quality intervention services. Participation in intervention services shall be voluntary.

B. Critical Minimum Standards

1. Standard 19.1. The program must have written policies and procedures to ensure that all services provided are documented in written or electronic form and that those records are maintained in a manner that protects the confidentiality and privacy rights of individuals and families receiving services.

2. Standard 19.2. Written records of services provided in individual, group, and family settings must be maintained by the program in a secure, locked storage area that is accessible only by staff members, authorized volunteers, and administrative staff members who are responsible for supervision and internal review of service records for quality assurance purposes.

3. Standard 19.3. The program must ensure that electronic records of services to survivors are accessible only to those listed in 19.2 and that the records cannot be accessed remotely by anyone outside of the organization.

C. Minimum Standards

1. Standard 19.4. Programs must have policies in place defining record retention that includes the length of time specific records are retained and the procedures for destroying both paper and electronic records.

2. Standard 19.5. Written records documenting services must be denoted in the following manner:

a. notes are entered in chronological order;

b. notes have the full signature of the advocate or counselor documenting the service;

c. entries are to be made immediately after all survivor contacts;

d. white-out is not to be used;

e. notes are not to contain any diagnoses or clinical assessments;

f. notes on one survivor do not include other survivor's names;

g. errors are to be corrected by drawing a line through the error and then writing "error" above the line along with the initials of the writer; and

h. only necessary facts are recorded.

3. Standard 19.6. Advocacy, counseling, and individual service planning documentation should include the following:

a. demographic data;

b. danger and lethality assessments;

c. history of abuse;

d. safety planning;

e. description of the abuser;

f. consent for services for the survivors and their children, if applicable;

g. individual service plans;

h. children's assessments, if applicable;

i. notification of limitations of confidentiality;

j. release of liability forms;

k. release of confidentiality forms, if applicable; and

l. service notes.

4. Standard 19.7. All personnel of a domestic violence program with access to records of direct services provided by the program must have a signed confidentiality agreement on file. Programs should identify in their confidentiality policies the specific staff members, as identified by job responsibility and title; that will have access to confidential information, records, and information systems.

5. Standard 19.8. A data collection and record keeping system must be developed that allows for the efficient retrieval of data needed to measure the domestic violence program's performance in relation to its stated goals, objectives, and the accounting of funds received for contracted services.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:2121-2128.

HISTORICAL NOTE: Promulgated by the Department of Children and Family Services, Economic Stability Section, LR 44:38 (January 2018).

§6953. Restricted Services

A. Guiding Principles. These standards require that family violence programs establish common quality intervention services. Participation in intervention services shall be voluntary.

B. Minimum Standards

1. Standard 20.1. The program must not offer services that could jeopardize the physical or emotional safety of the survivor. These services include couples counseling, family counseling that includes the presence of an alleged batterer, and mediation services.

2. Standard 20.2. No program staff member with responsibility to provide direct services to survivors or to supervise or direct programs for survivors shall be allowed to participate in or to lead batterer intervention program services. These two programs must remain entirely separate so that it is apparent to survivors that there is no conflict of interest within the program. The program must not allow batterer intervention services to take place on or near the premises of the family violence program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:2121-2128.

HISTORICAL NOTE: Promulgated by the Department of Children and Family Services, Economic Stability Section, LR 44:39 (January 2018).

Title 67
SOCIAL SERVICES
Part V. Child Welfare
Subpart 1. General Administration

Chapter 2. Treatment

§203. Limitation of Funds for Treatment

A. The purpose of establishing limits on the duration of formal therapy is to encourage the more effective use of available funds and achieve consistency between delivery of treatment and program policy which calls for short term service provision and timely achievement of permanency goals.

B. Treatment of child protection and family services clients and for clients in Services to Parents (SP) cases in the Foster Care Program will be time-limited and goal directed. No individual, family, or other treatment for these clients shall exceed six months. The only exception is for SP cases. In SP cases, two extensions of up to three months each may be authorized if it appears, based on a review of a detailed treatment plan and current case information, that the goal of reunification or adoption can reasonably be achieved during this time. Treatment in SP cases involving children whose permanency goal is other than reunification or adoption shall not exceed six months.

AUTHORITY NOTE: Promulgated in accordance with Act 15 of 1994 (State Appropriations Bill).
HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Community Services, LR 21:836 (August 1995).

Chapter 3. Training and Staff Development

§303. Training for Child Protection Investigation Staff Supervising the Taking of Videotaped Statements

A. OHD/DES staff supervising the taking of the videotaped statement of the child 14 years of age or under who is the victim of rape, physical or sexual abuse which will permit the videotape being used as competent evidence in a court of law shall at a minimum receive 12 hours of agency training that covers the following topics:

1. identification of child abuse and neglect;

2. physical, medical and behavioral indicators of physical and sexual abuse;

3. investigative interviewing and observing techniques;

4. techniques for talking to child victims;

5. techniques in the use of anatomically correct dolls in interviewing the sexually abused child.

B. The verification that the OHD/DES employee has received this training is documented on OHD/DES Form TR-1 which acknowledges the satisfactory completion of the mandated 32 hours of Act 710 Training for new workers and supervisors, and which will include the above cited training requirements or the specified 12 hours of training cited above. The agency's certification, TR-1, is completed by the OHD/DES regional trainer who conducted the training. It specifies the following:

1. employee's name;

2. Social Security number;

3. position with the agency;

4. title of course;

5. location of training;

6. inclusive date(s) of training;

7. total hours;

8. signature and date of signature of the trainer;

9. an attachment describing the contents of the completed training.

C. Further, the OHD/DES staff person supervising these videotaped interviews shall be required to complete these 12 hours of training every two years.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:440.4(B).
HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Human Development/Division of Evaluation and Services, LR 10:916 (November 1984).

Chapter 4. Placements

§401. Interethnic Adoption Provisions

A. The Office of Community Services and its subrecipients involved in adoption or foster care placements may not:

1. deny to any person the opportunity to become an adoptive or a foster parent on the basis of the race, color, or national origin of the adoptive or foster parent, or the child involved; or

2. delay or deny the placement of a child for adoption or into foster care on the basis of the race, color, or national origin of the adoptive or foster parent, or the child involved.

B. The term *placement decision* means the decision to place, or to delay or deny the placement of, a child in a foster care or an adoptive home, and includes the decision of

OCS and its subrecipients to seek the termination of birth parents' rights or otherwise make a child legally available for adoptive placement.

C. Any individual who is aggrieved by an action in violation of §401.A taken by OCS or its subrecipients shall have the right to bring an action seeking relief in a United States district court of appropriate jurisdiction.

D. Nothing in §401 shall be construed to affect the application of the Indian Child Welfare Act of 1978, 25 U.S.C. 1901 et seq.

AUTHORITY NOTE: Promulgated in accordance with P.L. 104-188, Section 1808.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Community Services, LR 21:1353 (December 1995), amended LR 24:702 (April 1998).

Title 67
SOCIAL SERVICES
Part V. Child Welfare
Subpart 2. Community Services

Chapter 7. Social Services Block Grant

§701. Authority

A. The state of Louisiana administers the Social Services Block Grant through the Department of Social Services, Office of Community Services in accordance with Title XX of the Social Security Act as amended and with applicable federal regulations including 45 CFR Part 96—Block Grants. The Office of Community Services of the Department of Social Services is responsible for the administration and delivery of services through direct provision and purchase of services.

AUTHORITY NOTE: Promulgated in accordance with P.L. 97-35, Sections 2351-55 (42 U.S.C. 1397-1397e).
HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Community Services, LR 17:1118 (November 1991).

§703. Federal Goals of Block Grant Program

A. The goals of the Block Grant Program are:

1. achieving or maintaining economic self-support to prevent, reduce or eliminate dependency;

2. achieving or maintaining self-sufficiency, including reduction or prevention of dependency;

3. preventing or remedying neglect, abuse or exploitation of children and adults unable to protect their own interests, or preserving, rehabilitating or reuniting families;

4. preventing or reducing inappropriate institutional care by providing for community-based care, home-based care or other forms of less intensive care;

5. securing referral or admission for institutional care when other forms of care are not appropriate or providing services to individuals in institutions.

AUTHORITY NOTE: Promulgated in accordance with P.L. 97-35, Sections 2351-55 (42 U.S.C. 1397-1397e).
HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Community Services, LR 17:1118 (November 1991).

§705. Services

A. Services provided under the Social Services Block Grant are defined annually in the final Intended Use Report which complies with Section 2004 of the Block Grant Statute and other federal regulations approved by the U.S. Department of Health and Human Services.

B. Prior to the adoption of the Intended Use Report by the agency, the report is made available for public review and written comments and at least one hearing is conducted in a major metropolitan area of the state. Notices are published in the state official journal and other major newspapers announcing public review.

C. Provision of services is based on the following categories of priorities:

1. *Priority 1*—life support services which if denied would place individuals at life threatening risk;

2. *Priority 2*—essential services, although non-life support, would maintain individual health and support the family unit; and

3. *Priority 3*—those services which are important but do not meet the criteria of *Priority 1* and *Priority 2* above or are available from another source.

AUTHORITY NOTE: Promulgated in accordance with P.L. 97-35, Sections 2351-55 (42 U.S.C. 1397-1397e).
HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Community Services, LR 17:1118 (November 1991).

§707. Eligibility

A. Certain individuals and categories of individuals may be eligible for services according to federal regulations. These are:

1. individuals, without regard to income, who are in need of adoption, child protection investigations, family services and/or foster care/residential habilitation services;

2. individuals without regard to income who are recipients of Title IVE Adoption Assistance as amended by U.S. Public Law 96-272 including adoption assistance recipients who relocate to Louisiana from another state that is signatory to the Interstate Compact on Adoption and Medical Assistance;

3. individuals without regard to income who are currently certified as classmembers in the federal class action judgement "Gary W. et al v. State of Louisiana et al," United States District Court, Eastern District of Louisiana, Civil Action No. 74-2412, who are in need of any service (including children's day care) provided under the Intended Use Report;

4. recipients of Aid to Families with Dependent Children (AFDC) and those persons whose needs were taken into account in determining the needs of AFDC recipients;

5. recipients of Supplemental Security Income payments, or state supplemental payments, and blind and disabled individuals eligible for such payments except for their earned income;

6. families with gross incomes which do not exceed 125 percent of the poverty level, as published yearly by the U.S. Department of Health and Human Services in the *Federal Register*. *Family* is defined as the basic family unit consisting of one or more adults and children, if any, related by blood or law and residing in the same household:

a. where adults other than spouses reside together, each is considered a separate family;

b. cohabitating non legal spouses are considered separate families;

c. when children are present in the home with non legal spouses, the parent who has primary responsibility for the care of his/her natural children is considered as being in the same family unit with the children;

d. emancipated minors, foster children and children living under the care of individuals not legally responsible for their care are considered one person families.

7. Title XIX (Medicaid) recipients and applicants for Title XIX (Medicaid) vendor payment for skilled nursing facility or intermediate care facility services, residing within the state, are eligible for any appropriate service except day care for children which requires applicants meet additional eligibility criteria which are described in the final Intended Use Report;

8. residents of the Housing Authority of New Orleans projects and related sites are group eligible for necessary and available services with the exception of day care for children, which maintains special eligibility criteria which are described in the final Intended Use Report.

AUTHORITY NOTE: Promulgated in accordance with P.L. 97-35, Sections 2351-55 (42 U.S.C. 1397-1397e).

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Community Services, LR 17:1118 (November 1991), amended LR 18:747 (July 1992).

§709. Responsibility for Eligibility Determination

A. Administrative responsibility for determining individuals eligible for direct delivered and vendor day care services, and for certifying groups eligible for services, rests with the Office of Community Services, except for situations where subrecipient contractors may be designated to determine eligibility.

AUTHORITY NOTE: Promulgated in accordance with P.L. 97-35, Sections 2351-55 (42 U.S.C. 1397-1397e).

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Community Services, LR 17:1118 (November 1991).

§711. Copayments

A. The Office of Community Services may allow for copayments to be collected from recipients of certain services when the cost of providing the services exceeds the Office of Community Services reimbursement rate according to sliding fee scales which may be established by the Department of Social Services. Any sliding fee scales which are adopted during a year are available to the public for review at the Office of Community Services.

B. The copayment collected from a service recipient plus the Office of Community Services' reimbursement rate may meet but shall not exceed the actual cost or usual fee for delivering the service. The family/client will be furnished a copy of the sliding fee scale for their information.

AUTHORITY NOTE: Promulgated in accordance with P.L. 97-35, Sections 2351-55 (42 U.S.C. 1397-1397e).

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Community Services, LR 17:1118 (November 1991).

§713. Funding

A. The appropriation and allocation of funds are subject to legislative and gubernatorial approval as well as the availability of federal and state funds. Louisiana's federal allotment of Social Services Block Grant funds is determined each fiscal year.

AUTHORITY NOTE: Promulgated in accordance with P.L. 97-35, Sections 2351-55 (42 U.S.C. 1397-1397e).

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Community Services, LR 17:1118 (November 1991).

§715. Available Information

A. The final Intended Use Report is available for review at the Office of Community Services, 333 Laurel Street, Baton Rouge, Louisiana. Costs for copies are established by the Division of Administration.

AUTHORITY NOTE: Promulgated in accordance with P.L. 97-35, Sections 2351-55 (42 U.S.C. 1397-1397e).

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Community Services, LR 17:1118 (November 1991).

§717. Allocation of Hurricane Relief Funds SSBG Supplemental Appropriation

A. Purpose, Need, and Eligibility

1. Under the Department of Defense Appropriations Act (H.R. 2863), $220,901,534 has been allocated to Louisiana in a supplemental appropriation to Social Service Block Grant (SSBG) funds for necessary expenses related to the consequences of hurricanes in the Gulf of Mexico in calendar year 2005. In addition to other uses permitted by Title XX of the Social Security Act, funds appropriated under this heading may be used for health services, including mental health services, and for repair, renovation and construction of facilities, including mental health facilities. The Administration for Children and Families, (ACF) approved a waiver of the provisions under Section 2005 (a) of the Social Security Act on June 2, 2006 to allow the use of SSBG Supplemental funds for the rebuilding and construction of childcare facilities in Louisiana.

2. The Office of Community Services (OCS) proposes to enter into contracts, memoranda of understanding, or other agreements with the entities listed in this Rule

including but not limited to such services as health services, including mental health services, for repair, renovation, and construction of facilities, including Class A child care facilities and mental health facilities, intensive benefits, and case management for the citizens of this state effected by the hurricanes. This Rule is effective for the SSBG allotment of federal fiscal year 2006.

3. It recognizes that the hurricanes in the Gulf of Mexico in calendar year 2005 have imposed extreme demands for social and health care services in affected states. States may use SSBG funds for a wide array of human services.

4. Because of the nature of the natural disaster, many affected individuals and families will not have in their possession customary documentation of their economic status to substantiate eligibility for SSBG supported services. Also, many individuals or families who may not have been eligible for assistance prior to the hurricanes may be, because of the devastation, eligible now. Therefore, "presumptive eligibility" determinations may be made based on applicant residence in known areas of devastation at the time of hurricane Katrina (H Katrina) or hurricane Rita (H Rita) or post-hurricane experience of affected individuals or families. Each entity that receives the SSBG funding can have additional or different eligibility requirements.

5. The following areas to be addressed include:

a. The health care needs of people affected by the hurricanes in the Gulf of Mexico in calendar year 2005 and who lack health insurance or other adequate access to care and to help health care create a "safety net." This would include intended uses of these funds in areas of mental health service provision and provision for substance and addictive disorder interventions and services.

b. Expanding services to meet the needs of families in the child welfare system in the areas of foster care, adoption, prevention, intervention, and protective services in child welfare.

c. Institutions serving these populations in order to build community health centers, rural hospitals and clinics, community mental health centers, public hospitals, and other providers with substantial percentages of uninsured patients. Funds may be made available for repairs and reconstruction needed to allow health centers and similar providers to resume or expand operations, or to help key providers meet salary and other costs associated with resuming or restoring health services.

d. Providing social service delivery and case management services to families in order to assist with identification of housing needs, development of individualized recovery plans and referral of families to available disaster relief services, provide for case management and follow-up with families, and to provide for direct emergency assistance in human services.

e. Restoring critical child care services will support families as they return to work in hurricane affected parishes. Child care supports are vital to reestablishing a workforce and strengthening our state's economy. Child care is a critical need to promote independence and safety of families and children. Restoring the child care infrastructure is a current need in Louisiana. Funds will be available to rebuild the child care infrastructure by repairing and/or building Class A child care centers and providing training and technical assistance necessary in attracting and retaining a child care workforce.

B. Department of Social Services

1. Child Welfare Services—Foster Care, Adoption, Prevention, Intervention and Protective Services. Services will include anger management, parenting skills, counseling, etc. Visitation expenses include travel for the foster child and foster parent/caretaker from their displaced location to the birthparent's location, lodging, and meals during the travel. This includes travel both within and outside of Louisiana. It is estimated that 2/3 of impacted children lost at least a significant portion or all of their personal belongings that have yet to be replaced. These were possessions lost or damaged during the time during and after H Katrina or H Rita. These funds will be used in this arena. These funds will be used to provide for the youth effected by H Katrina or H Rita in OCS independence programs. These are programs used to assist children aging out of foster care custody and who have greater needs for transitional assistance than is typically provided, especially in the aftermath of the upheaval and displacement brought on by the storms of 2005. These funds will be used for foster care reunification services, as additional demands for such services are felt as a result and impact on the child welfare system of services due to H Katrina and H Rita. After most disasters, there is an evidenced increase in abuse and/or neglect as well as disruptions in foster care. Such funds will be used to obtain trauma-related services to help stabilize placements and prevent disruptions by providing increased service access for family services, respite care, counseling, parenting classes, etc.

2. Child Care Services. Louisiana must rebuild the child care infrastructure in the hurricane affected parishes to assist families in returning to work while ensuring their children receive quality child care. To meet the critical need for child care in Louisiana, DSS/OFS will implement a child care support system to rebuild the child care sector. This will be done by three initiatives.

a. Training and Technical Assistance for Child Care Providers. The objective of this program is to provide intensive training and technical assistance for current and prospective child care providers to increase the supply of child care businesses opening and reopening in the hurricane affected areas. Training and technical assistance will also be provided to current and prospective child care providers and other professionals engaged in the system. The services will be available in Calcasieu, Cameron, Orleans, Jefferson, Plaquemines, St. Bernard, St. Tammany and Washington Parishes.

b. Furnishing Child Care Centers Program. This component will offer a program for equipping, furnishing, and supplying Class A Child Care centers whose licenses

were suspended due to hurricane-related damage and have reopened, Class A centers in the process of opening or reopening, or Class A centers being constructed. An assessment of each center will be conducted and a priority for equipping Class A child care centers will be established. Furnishings, equipment and supplies include but are not limited to curriculum, books, furniture, appliances, office equipment, developmentally and age appropriate play equipment for both indoor and outdoor space and other items appropriate to the operation of a Class A licensed day care center.

i. Eligibility will be limited to the Class A child care centers that are currently participating in the Child Care Assistance Program (CCAP) funding; those reopening, that participated in the CCAP within a year prior to August 2005; or for those new Class A child care centers that have opened since August 29, 2005, and are committing to serve CCAP eligible children within 60 days of opening for business.

ii. The program will be offered in Calcasieu, Cameron, Orleans, Jefferson, Plaquemines, St. Bernard, St. Tammany and Washington parishes.

iii. Eligible expenses dated October 1, 2005 or after will be reimbursable. Eligible reimbursable expenses are those not covered by other reimbursements, such as insurance and other state or federal funds.

iv. Class A child care centers participating in this program must agree to accept all requirements as defined by SSBG and the state, including federal and state interest.

c. Child Care Facilities Restoration Fund: This program will provide funds for repair and/or construction of Class A child care centers in hurricane devastated parishes Calcasieu, Cameron, Orleans, Jefferson, Plaquemines, St. Bernard, St. Tammany and Washington. The state must apply its appropriate administrative standards when issuing sub awards to guarantee the protection and disposition of real estate rebuilt, constructed or purchased with grant funds and the state is also required to file a Notice of Federal Interest document to officially recognize the Federal Government's continuing financial interest in the property. The minimum eligibility criteria for the Child Care Facilities will include the following:

i. previously held Class A license or agree to become a Class A licensed facility and agree to maintain a Class A license;

ii. for Class A centers that previously held a Class A license, have served children subsidized with CCAP funds within 12 months prior to August 2005 and commit to doing so moving forward, and provide assurance that SSBG funding along with any other identified funding will allow the center to reopen and serve children;

iii. for an entity wishing to open a new Class A child care center, must declare intention to serve children subsidized with CCAP funding and provide assurance that SSBG funding along with any other identified funding will allow the center to reopen and serve children;

iv. must provide evidence of current demand for services;

v. must provide evidence of capacity to provide quality child care services;

vi. must agree to accept all requirements as defined by SSBG and the state including federal and state interest;

vii. eligible expenses dated October 1, 2005 or after will be reimbursable. Eligible reimbursable expenses are those not covered by other reimbursements, such as insurance and other state or federal funds.

C. Department of Health and Hospitals

1. Behavioral Health Services

a. Funds shall be used to restore and expand mental health services, substance abuse treatment and prevention services and developmental disability services as follows:

i. immediate intervention—crisis response system;

ii. substance abuse treatment and prevention;

iii. behavioral health services for children and adolescents;

iv. preventing or reducing inappropriate institutional care;

v. behavioral health program restoration and resumption;

vii. health care work force; and

vii. operational tools.

2. Preventive and Primary Care. Funds shall be used to issue grant awards to parishes as bridge funding to restore and develop comprehensive and integrated primary, preventive and behavioral health care services, with an emphasis on restoring safety net services for the uninsured and underinsured.

D. Louisiana State University Health Sciences Center (LSU-HSC)

1. Funds Allocated to LSU. HSC would be used as follows.

a. Keep the healthcare workforce intact by retaining faculty and residents.

b. Set up primary care clinics across the city with funding for salaries for dentists, physicians, nurses and allied health personnel.

c. Expand capabilities to address psychiatric needs in New Orleans and surrounding areas.

d. Support the general dentistry residency, oral and maxillofacial surgery residency, and oral medicine programs that provide preventive and primary care to the uninsured at multiple sites in the state.

e. Prepare an adequate number of allied health professionals who can function in primary, secondary, and tertiary care through the School of Allied Health Professions. The LSUHSC-New Orleans is a primary source of graduate level practitioners in the areas of physical therapy, occupational therapy, speech and language pathology, audiology, medical technology, cardiopulmonary technology, and rehabilitation counseling for New Orleans and the state of Louisiana.

f. Resume Early Intervention Institute and the Human Development Center direct service, consultative, and advocacy programs for individuals with disabilities. Reestablishing these services will ensure maintenance of high-quality health care educational experiences for individuals who work with these citizens who represent a portion of our population that is typically uninsured, underserved, and at the greatest risk for developing physical and mental problems.

E. LSU Health Care Services Division (HCSD)

1. Funding to the HCSD in the current fiscal year will enable the Division to continue providing the following services:

a. the enhancement of primary care services at the regional hospitals to accommodate the population shifts which have occurred;

b. the patient pharmaceutical procurement program which matches needy patients with low cost medications that are essential to proper management of such conditions as diabetes, hypertension, asthma, HIV and asthma which have the effect of preventing further and or rapid development of the disease;

c. provide needed financing for eight neighborhood health units currently under development for placement in New Orleans;

d. continued funding of the EMED currently at the New Orleans Convention Center;

e. funding for the Level I Trauma Service operational costs anticipated at the Elmwood Hospital location;

f. provide the HCSD hospitals with the ability to continue its current level of support for Mental and Behavioral Health Programs.

F. Louisiana Family Recovery Corps

1. The Department of Social Services, Office of Community Services (DSS/OCS) will contract with the Louisiana Family Recovery Corps (LFRC) to provide (SSBG) approved services to individuals and families displaced by Hurricanes Katrina or Rita through programs developed by LFRC. The LFRC, an independent non-profit organization, was created to mobilize and coordinate humanitarian services to displaced Louisiana families in the wake of these disasters.

2. Eligibility for SSBG approved services is limited to individuals and families that were displaced as a result of Hurricane Katrina or Hurricane Rita. LFRC, in coordination with the department, is authorized to develop programs with more restrictive eligibility requirements than those provided above, including but not limited to financial eligibility, pre-storm residence, current or prospective residence, age, and disability.

3. Eligible services are those directed at the goals of:

a. achieving or maintaining economic self-support to prevent, reduce, or eliminate dependency;

b. achieving or maintaining self-sufficiency, including reduction or prevention of dependency;

c. preventing or remedying neglect, abuse, or exploitation of children and adults unable to protect their own interests, or preserving, rehabilitating, or reuniting families;

d. preventing or reducing inappropriate institutional care by providing for community-based care, home-based care, or other forms of less intensive care; and

e. securing referral or admission for institutional care when other forms of care are not appropriate, or providing services to individuals in institutions.

4. LFRC, in coordination with the department, is authorized to develop programs that provide services that are necessary to address the consequences of the hurricanes for the eligible population and are directed at the goals of SSBG.

G. Tulane University Health Sciences Center

1. Tulane University will help sustain the health care safety net in New Orleans, as well as assist in responding to the new health care crisis in this community. These funds may be utilized in the following areas:

a. sustain, and when needed, enhance capacity to provide primary care, emergency care, public health preparedness and training, adult and child psychiatry, women's health, children's health, health equality, environmental health, infectious diseases to the to under and uninsured;

b. maintain a high-quality biomedical workforce in the greater New Orleans region through retention of existing healthcare faculty and residents;

c. support for the School of Public Health and Tropical Medicine;

d. retention and establishment of primary care clinics;

e. support for Cancer Center and Gene Therapy Center;

f. support for clinical research and supporting faculty and staff.

H. Governor's Office of Elderly Affairs. The Department of Social Services will enter into an agreement with the governor's Office of Elderly Affairs to provide necessary services to seniors as a result of hurricanes Rita or Katrina of 2005. Eligibility for SSBG approved services is as follows:

a. age 60 or over, and

b. individuals with an adult onset disability who have a need for living assistance;

c. clients must have resided in one of the 37 federally declared disaster parishes at the time of hurricanes Katrina and Rita of 2005. Those parishes are Acadia, Allen, Ascension, Assumption, Calcasieu, Cameron, Beauregard, East Baton Rouge, East Feliciana, Evangeline, Iberia, Iberville, Jefferson, Jefferson Davis, Lafayette, Lafourche, Livingston, Orleans, Plaquemines, Pointe Coupee, Sabine, St. Bernard, St. Charles, St. Helena, St. James, St. John, St. Landry, St. Martin, St. Mary, St. Tammany, Tangipahoa, Terrebonne, Vermilion, Vernon, Washington, West Baton Rouge, and West Feliciana Parish.

3. Services to be provided include the following.

a. Material Aid: Assistance includes but is not limited to assistance with prescription drugs not covered by another program, adult diapers or other personal hygiene items, basic furniture items (beds or bedding), assistance devices, such as walkers, canes, wheelchairs, and other goods such medical supplies.

b. Minor Home Repairs needed in order to make homes safe and livable, such as replacement of windows, doors, door locks, minor roof repairs, flooring replacement, replacement of insulation, repairs to heating and cooling systems, and other minor repairs.

c. Safety and access installations includes the installation of access ramps, safety grab bars in bathrooms.

d. Chore Services. Necessary services could include, but are not limited to heavy indoor and outdoor housework such as mold removal, drapery removal/cleaning/re-installation, carpet sanitization, floor stripping and re-conditioning, debris removal, tree-trimming, or other lawn clean-up. (Routine lawn care or housework is not an allowable expense.)

e. Information and Assistance (Information and Referral). This service assesses the client and determines what type of assistance is needed or makes provisions to provide this service. Most clients will only receive one unit of this service not to exceed $25, which includes the agency placing this information into *SAMS* the existing client tracking system for GOEA.

f. Transportation. This service will provide door-to-door assistance for clients when there is no other comparable service available. The client would make a call to reserve transport for medical appointments, to merchants who provide basic needs and any location where an applicant has an appointment for services (example: food stamp office, Road Home Center, local Council on Aging, etc.).

g. Home Care. This service will provide supervision and companionship in a home setting, not an institution, to ensure the health and safety of a senior or an individual with onset disabilities who cannot be left alone.

h. Home Delivered Meals. Home-delivered meals are those services or activities designed to prepare and deliver one or more meals a day to an individual's residence in order to prevent institutionalization, malnutrition, and feelings of isolation.

i. Other Needs. This category will serve clients with a service not being provided by any other source.

I. Orleans Metro Housing

1. The Department of Social Services will contract with the Orleans Metro Housing (local non-profit) to assist hurricane-affected clients in Orleans Parish, in locating suitable affordable housing in Orleans Parish.

2. To be eligible for services, clients must have lived in Orleans Parish prior to the storms of 2005. There are no age or income or other requirements.

3. Services provided by Orleans Metro Housing, include: community outreach (through local churches, door-to-door in neighborhoods, etc.) to those in need of housing assistance in Orleans Parish, assisting clients in determining the types of housing that will best suit their needs and budget, matching up clients with available housing, maintaining an up-to-date inventory of sale and rental properties in the parish, referring clients to other non-profit home-buying programs if determined client has sufficient income, referring clients to agencies that provide financial assistance for housing and household expenses, negotiating with leasers or landlords on behalf of clients, and other related services.

AUTHORITY NOTE: Promulgated in accordance with Title XX of the Social Security Act and Department of Defense Appropriations Act (H.R. 2863).

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Community Services, LR 33:2464 (November 2007).

Chapter 10. Children's Trust Fund

§1001. Plan for Preventing Child Abuse and Neglect

A. Pursuant to R.S. 46:2406, the proposed plan has been submitted to the Joint Committee on Health and Welfare of the Louisiana Legislature for approval prior to adoption by the Louisiana Children's Trust Fund Board. The plan becomes effective subsequent to adoption by the Louisiana Children's Trust Fund Board and will form the basis for future activities of the Children's Trust Fund.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:2406.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Community Services, LR 20:898 (August 1994), amended LR 23:1326 (October 1997), LR 26:2632 (November 2000).

Title 67
SOCIAL SERVICES
Part V. Child Welfare
Subpart 3. Child Protective Services

Chapter 11. Administration and Authority

§1101. State Repository

A. The Department of Children and Family Services (DCFS) establishes and will maintain a state repository of all reports of abuse and neglect. The state repository will include information on individuals involved in reports and investigations of child abuse and neglect with the following dispositions:

1. non-report (information from reporter did not meet criteria for report of child abuse or neglect);

2. valid/justified; invalid/not justified; inconclusive;

3. alternative response family assessment;

4. client non-cooperation;

5. unable to locate;

6. administrative closure;

7. false report; and

8. protective service alerts.

B. All records of reports of child abuse or neglect are confidential in accordance with state and federal law and regulations.

AUTHORITY NOTE: Promulgated in accordance with Act 348 of 2017 and Children's Code, Article 616, State Repository.

HISTORICAL NOTE: Promulgated by the Department of Children and Family Services, Division of Child Welfare, LR 44:998 (June 2018), effective July 1, 2018.

§1103. State Central Registry

A. Within the state repository of reports of abuse and neglect, the Department of Children and Family Services (DCFS) establishes and maintains a state central registry (SCR) that is comprised of three tier levels of certain justified/valid reports of abuse and neglect. Each justified/valid allegation shall be assigned a tier level for each perpetrator and child victim combination. At the time of the case closure, the highest tier of all justified/valid determinations shall be assigned to that perpetrator. The three SCR tiers range from tier 1 which includes the most severe abuse and neglect harm/injury to the child victim to tier 3 which includes the least severe harm/injury to the child victim. The SCR tier system determines placement on the SCR and the duration of time the individual's name will remain on the SCR. Information on a perpetrator of child abuse or neglect shall be maintained indefinitely on the SCR for tier 1 determinations. Information on a perpetrator shall be maintained on the SCR for 18 years from the date of the justified/valid finding for tier 2 determinations. Information on a perpetrator shall be maintained on the SCR for seven years from the date of the justified/valid finding for tier 3. An individual will be removed from the SCR at the end of the SCR retention period for tiers 2 and 3. Individuals shall be notified in writing of the period of maintenance on the SCR along with the notification of a valid finding.

B.1. Individuals in investigations in families who have been determined to be justified/valid as a perpetrator of child abuse and/or neglect prior to July 1, 2018, will be maintained on the SCR for the lesser of:

a. the length of time as determined for the allegation in accordance with the SCR tier system; or

b. the retention period in effect at the time of the valid/justified determination.

2. Individuals who have been placed on the SCR as a perpetrator of abuse or neglect as the result of an investigation determined to be justified/valid prior to August 1, 2018, will have the right to an administrative appeal pursuant to LAC 67:V.1111. Information on such determinations will not be released until the individual has exhausted their right to an administrative appeal, unless otherwise allowed by law. Once the individual has exhausted their administrative appeal rights, if an SCR clearance has been received by DCFS, the clearance will be completed and information released consistent with the administrative hearing decision and as permitted for the purpose of the clearance request.

C.1. Individuals in investigations in families who have been determined to be justified/valid as a perpetrator of child abuse and/or neglect subsequent to July 1, 2018, will be maintained on the SCR in accordance with the application of the SCR tier level.

2. Individuals in investigations in families who have been determined to be justified/valid as a perpetrator of child abuse and/or neglect for a tier 1, 2, or 3 finding, as defined in LAC 67:V.1103.A, subsequent to July 1, 2018, shall be provided written notice of the SCR and the rules governing maintenance and release of SCR records. As of August 1, 2018, the written notice shall also inform the individual of their right to an administrative appeal pursuant to LAC 67:V.1111. The individual's name will not be placed on the SCR until the individual has exhausted his right to an administrative appeal. If the individual fails to request an administrative appeal within 20 days of the written

notification of the justified/valid finding, withdraws their request for an administrative appeal, or the justified/valid finding is upheld by an administrative law judge, the individual's name will be immediately placed on the SCR.

D. Once an individual has exhausted their administrative appeal rights, the individual's name shall be listed on the SCR if at least one justified/valid finding that meets the criteria for a tier 1, 2, or 3 finding, as defined in LAC 67:V.1103.A is upheld.

E. Information on individuals in child abuse or neglect investigations that appear to be not justified/invalid or inconclusive used as a part of the basis of a later, related and justified/valid tier 1, 2 or 3 determination shall become part of the file for the justified/valid report and shall cease to be a separate report. The information will be maintained on the SCR for the length of the time for the justified/valid determination.

F.1. Any person whose name is included on the SCR subsequent to August 1, 2018, may file a rule to show cause against DCFS in the court exercising juvenile jurisdiction in the parish in which the investigation was conducted to show why the individual's name should not be removed from the SCR. A perpetrator of a tier 1 justified/valid determination cannot be removed through this procedure. This rule to show cause may be filed for a perpetrator of a tier 2 justified/valid determination after nine years from the date of the case closure, or, four years from the date of the case closure for a perpetrator of a tier 3 justified/valid determination with the following circumstances:

a. there was no child in need of care adjudication related to the justified/valid determination;

b. no criminal charges are currently pending, associated with the incident, or criminal conviction for any offense listed in R.S. 15:587.1; and

c. there have been no subsequent justified/valid determinations involving the individual as a perpetrator of child abuse or neglect.

2. DCFS will remove the petitioner's name and other identifying information from the SCR upon receipt of a court order to do so.

G. DCFS is authorized to release information maintained on the SCR in limited circumstances. This information will be released according to the following provisions.

1. DCFS will disclose information regarding perpetrators of child abuse and/or neglect who are listed on the SCR to other states' child welfare agencies upon formal inquiry by that agency, when the inquiry is made pursuant to an ongoing child protective services investigation, child protection alternative response, foster care home study, adoptive home study, or family services case following a child protective services investigation in the requesting state, in accordance with R.S. 46:56(F)(4)(a). This information may also be released to private licensed child placing agencies located in Louisiana and in other states upon formal inquiry and verification of licensure. Information released to such agencies is confidential and shall not be released to sources outside the agency.

2. DCFS will disclose internally information regarding perpetrators of child abuse and/or neglect who are listed on the SCR for foster, adoptive and other home studies for the purpose of placement of children or as a visitation resource for children who are in the custody of the department or receiving services from the department.

3. DCFS will disclose information regarding perpetrators of abuse and/or neglect who are listed on the SCR when requested by an employer or prospective employer of a person who will be exercising supervisory authority over that employer's minor children or other dependent person as part of that person's direct employment and supervision as a caregiver by the parent or person with the dependent. The written request for the information will be a signed and notarized request form that must be signed by the employee and employer. The form will be provided upon request from the employer, prospective employer, employee, or prospective employee. The information will be disclosed to the employer or prospective employer.

4. DCFS will disclose information regarding perpetrators of child abuse and/or neglect who are listed on the SCR to the court when requested pursuant to R.S. 46:56(F)(1) and Ch. C., article 616 C, with a written request from a judge of a court exercising juvenile jurisdiction for a CASA applicant, with the applicant's written consent.

5. DCFS will disclose information regarding perpetrators of child abuse and/or neglect who are listed on the SCR for independent adoptions in accordance with the *Louisiana Children's Code*.

6. DCFS will disclose internally information regarding perpetrators of child abuse and/or neglect who are listed on the SCR when requested pursuant to R.S. 46:51.2(A) for potential or current employees of DCFS. Information disclosed shall be limited to those names recorded on the SCR subsequent to January 1, 2010.

7. DCFS will disclose information regarding perpetrators of child abuse and/or neglect listed on the SCR when requested as part of the application process of a prospective DCFS volunteer or service provider. Information disclosed shall be limited to those names recorded on the SCR subsequent to January 1, 2010. The disclosures for prospective volunteers and service providers are limited to the following individuals:

a. an individual who will be providing services for a child currently in the department's custody through a mentoring or tutoring program; or, formal plan approved by DCFS;

b. an individual who has personally entered into an agreement with the department for the provision of transportation services for a child currently in its custody;

c. an individual who has agreed to serve as a monitor of a safety plan developed by the department for the

protection of a child's health and safety while remaining in his home.

8. DCFS will disclose information on perpetrators with justified/valid sexual abuse determinations on the SCR in accordance with 34 USC 30301 et seq., and 28 CFR 115.5 et seq. for prospective and current juvenile facility employees of the Office of Juvenile Justice upon receipt of a written request.

9. DCFS will disclose information on perpetrators of child abuse and/or neglect who are:

a. listed on the SCR involving any owner, operator, current or prospective employee or volunteer of a specialized provider or juvenile detention facility licensed by DCFS to DCFS Licensing;

b. a day care center licensed by the Louisiana Department of Education (LDOE) to LDOE;

c. a registered family child day care home registered by LDOE to LDOE; and/or

d. LDOE employees and potential employees responsible for the performance of licensing inspections to LDOE.

10. LDOE is authorized to collect the $25 fee for the clearance on behalf of DCFS for requests from any owner, operator, current or prospective employee or volunteer a day care center licensed by the LDOE or a registered family child day care home provider registered by LDOE. An owner, operator, current or prospective employee or volunteer of a specialized provider or juvenile detention facility licensed by DCFS shall submit the $25 fee to DCFS with the written request which shall include the express consent of the applicant to the departments. DCFS will not disclose such information until there is confirmation of receipt of the $25 fee by LDOE or DCFS.

11. DCFS will disclose to a potential employer or another lead state agency information on perpetrators of child abuse and/or neglect who are listed on the SCR for individuals as requested by other states as pursuant to federal law for employees and potential employees of child day care settings; and, out of state child care institutions as defined by 42 USC 672, upon receipt of a written request containing the individual's consent and upon receipt of the $25 fee. DCFS will not disclose such information until it has confirmed receipt of the fee.

12. DCFS will disclose to a therapeutic group home licensed by the Louisiana Department of Health (LDH), or applicant for a license from LDH, information on perpetrators of child abuse and/or neglect who are listed on the state central registry upon receipt of the $25 fee for the clearance; and, the individual's written and signed consent for the following:

a. any person who owns, operates or manages a licensed therapeutic group home;

b. any person who has applied for a license to operate a therapeutic group home;

c. any person who is employed by, is contracted by, volunteers at, or interns with a therapeutic group home;

d. any person who has applied to be employed or contracted by a therapeutic group home;

e. any person who has applied to volunteer or intern with a therapeutic group home.

13. The information on the SCR for the above persons may be released to the LDH as required for LDH licensure of the therapeutic group home. This release shall not apply to contractors and other individuals providing a service at the therapeutic group home who are not employees, volunteers, interns, or contracted members of the staff of the therapeutic group home, including but not limited to plumbers, landscapers, or visiting resources.

AUTHORITY NOTE: Promulgated in accordance with the Children's Code, title VI, articles 615 and 616 and title XII, article 1173, R.S. 14:403(H), R.S. 46:51.2(A), R.S 46:56, R.S. 46:1414.1, 42 USC 15601 et seq., 28 CFR 115.6., 42 USC 9858f and R.S. 40:2008.10.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Community Services, LR 18:79 (January 1992), amended LR 20:198 (February 1994), LR 21:583 (June 1995), LR 23:590 (May 1997), LR 26:790 (April 2000), LR 31:1609 (July 2005), LR 36:838 (April 2010), amended by the Department of Children and Family Services, Division of Programs, Child Welfare Section, LR 42:862 (June 2016), amended by the Department of Children and Family Services, Division of Child Welfare, LR 44:998 (June 2018), effective July 1, 2018, amended LR 45:217 (February 2019), amended LR 45:1053 (August 2019), LR 46:14 (January 2020), effective February 1, 2020.

§1105. Maintenance and Disclosure of Information on Reports and Investigations on the State Repository

A. The Department of Children and Family Services (DCFS) will maintain records of investigations on reports of child abuse and/or neglect in families determined to be not justified/invalid on the State Repository. Except as specifically authorized by law, the records will be maintained for the exclusive use of child protection services to assist in future risk and safety assessments, and shall not become part of the SCR. The information shall be confidential and will not be released to other persons or agencies outside of DCFS, except as specifically authorized by law.

1. Records of reports that have been determined to be not justified/invalid shall be maintained on the state repository for 7 years from the date of the determination. At the end of 7 years from the date of the determination, the information will be expunged unless there have been subsequent reports and investigations involving the same perpetrator. When there are subsequent investigations with determinations of not justified/invalid or inconclusive, all records will be maintained until the youngest child in the victim's family at the time of the investigation reaches the age of 18 or 7 years from the date of the latest determination, whichever is longer.

2. When there are subsequent investigations involving the same perpetrator determined to be justified/valid and the information from the not justified/invalid report is used as a part of the basis for a later, related justified/valid report, the earlier not justified/invalid report shall become part of the file of such justified/valid report and shall cease to be a separate report. All the information is maintained until the retention period for the justified/valid finding has elapsed.

B. DCFS will maintain records on the state repository on reports of child abuse and/or neglect in families determined to be inconclusive for seven years after the determination of the finding unless there is a subsequent report and investigation involving the same perpetrator. If there is a subsequent investigation determined to be not justified/invalid or inconclusive, the information will be maintained until the youngest child in the alleged victim's family at the time of the investigation reaches the age of eighteen or seven years from the date of the latest determination, whichever is longer. When there are subsequent investigations determined to be justified/valid and information from the inconclusive investigation is used as a part of the basis for a later, related justified/valid determination, the inconclusive report shall become part of the file of such justified/valid report and shall cease to be a separate report. All the information is maintained until the longest retention period for the determinations has elapsed.

C. DCFS will maintain information on the state repository on reports and investigations of child abuse/neglect in foster homes, specialized providers, juvenile detention centers, residential facilities, day care centers, and registered family child day care homes determined to be not justified/invalid or inconclusive. These records will be maintained for seven years unless there is a subsequent report and investigation involving the same alleged perpetrator. In that case, all records will be maintained an additional seven years for the not justified/invalid or inconclusive determination.

D. Information on investigations determined to be client non-cooperation will be maintained on the state repository for seven years unless there is a subsequent investigation involving the same perpetrator, in which case all records will be maintained until the retention period for the subsequent determination has elapsed.

E. Information on investigations determined to be unable to locate will be maintained on the state repository for three years unless there is a subsequent investigation or alternative response family assessment involving the same perpetrator, in which case all records will be maintained until the retention period for the subsequent determination or assessment has elapsed.

F. Information on intake cases on families and out-of-home settings closed as not accepted for an investigation or an alternative response family assessment with current or previous DCFS involvement will be maintained on the state repository for 18 months or the record retention period for the closed or active case, whichever is longer. If a subsequent not accepted report involving the same perpetrator is received within the 18 month retention period, all intake cases are maintained until the most recent not accepted report has been maintained for 18 months. If there are subsequent reports involving the same perpetrator accepted for investigation, all not accepted reports are maintained until the longest retention period for the justified/valid determinations or assessments has elapsed.

G. Protective service alerts from other states will be maintained on the state repository for one year from the month the information is entered into the agency computer tracking and management system when the protective service alert is not associated with a DCFS case. Protective service alerts associated with a DCFS and family services case are retained for the retention period for the associated agency case.

H. Alternative response family assessment records are retained on the state repository for seven years from the date of closure. If there are subsequent investigations or alternative response family assessments involving the same perpetrator, all information will be maintained until the retention period for the subsequent determination has elapsed, however in no circumstance will the original assessment be maintained for less than seven years.

I. Information on a report and investigation determined to be a false report will be maintained on the state repository for six years.

J. Information of individuals with justified/valid findings for their involvement as a perpetrator of child abuse or neglect will be maintained on the state repository indefinitely for tier 1 justified/valid determinations; and, for 18 years from the date of the finding for all other justified/valid determinations.

K. Information on a report and investigation determined to be inconclusive is confidential and shall only be released for the following purposes, unless otherwise specifically authorized by law.

1. Information on an adult with an alleged involvement in the abuse/neglect may be released, with the individual's written permission when they are applying to be a volunteer, foster parent, adoptive parent, or caregiver pursuant to *Louisiana Children's Code* Ch. C., article 616.

2. Information regarding a report and investigation may be released to law enforcement without an individual's consent with a current criminal investigation involving acts against children.

L. Information on a report and investigation determined to be justified/valid maintained on the state repository shall not be released for employment purposes, except as allowed by LAC 67:V.1103, and shall only be released for the following purposes, except as specifically authorized by law.

1. DCFS will disclose information regarding perpetrators of child abuse and/or neglect listed on the state repository to other states' child welfare agencies upon formal inquiry by that agency, when the inquiry is made pursuant to an ongoing child protective services investigation, child

protection alternative response, foster care home study, adoptive home study, or family services case following a child protective services investigation in the requesting state, in accordance with R.S. 46:56(F)(4)(a). This information may also be released to private licensed child placing agencies located in Louisiana and in other states upon formal inquiry and verification of licensure. Information released to such agencies is confidential and shall not be released to sources outside the agency.

2. DCFS will disclose information regarding perpetrators of child abuse and/or neglect listed on the state repository for the limited purpose of evaluating applicants for CASA volunteers, with their signed consent.

3. DCFS will disclose information regarding perpetrators of child abuse and/or neglect listed on the state repository for foster, adoptive and other home studies for the purpose of placement of children or as a visitation resource for children who are in the custody of the department or receiving services from the department.

4. DCFS will disclose information regarding perpetrators of child abuse and/or neglect listed on the state repository when requested as part of the application process of an individual who has agreed to serve as a monitor of a safety plan developed by the department for the protection of a child's health and safety while remaining in his home. Information disclosed shall be limited to those names recorded on the repository subsequent to January 1, 2010.

5. DCFS will disclose information on perpetrators with justified/valid sexual abuse determinations on the state repository in accordance with 34 USC 30301 et seq., and 28 CFR 115.5 et seq. for prospective and current juvenile facility employees of the Office of Juvenile Justice upon receipt of a written request containing the individual's consent.

6. DCFS will disclose information on the state repository when requested by an employer or prospective employer of a person who will be exercising supervisory authority over that employer's minor children or other dependent person as part of that person's direct employment and supervision as a caregiver by the parent or person with the dependent. The written request for the information will be a signed and notarized request form that must be signed by the employee and employer. The form will be provided upon request from the employer, prospective employer, employee, or prospective employee. The information will be disclosed to the employer or prospective employer.

7. DCFS will disclose information regarding perpetrators of child abuse and/or neglect in foster homes, child day care centers, specialized providers, juvenile detention centers, residential facilities, registered family child day care homes and residential facilities on all valid determinations on the state repository to the agency or sponsoring agency responsible for the licensure or registration of the facility.

M. Any person whose name is included on the SCR prior to August 1, 2018 with a justified/valid determination may file a rule to show cause against DCFS in the court exercising juvenile jurisdiction in the parish in which the investigation was conducted to show why the information on file should not be expunged. DCFS will expunge the petitioner's name and other identifying information from the SCR upon receipt of a court order to do so. Any expungement order issued by a court shall not take effect as to non-identifying statistical information on file until the three-year record retention period required by federal law for audit purposes has expired, counting from the month and year of the determination. During the three-year record retention period, such records bearing the non-identifying statistical information shall be sealed and accessible only to the financial auditors.

N. When after an investigation, the determination is made by the department that the report does appear to be justified/valid, any subsequent adjudication by a court exercising juvenile jurisdiction which dismisses the child in need of care petition involving the report shall be added to the State Repository.

O. An individual may inquire in person at a DCFS parish child welfare office as to whether they have any appealable justified/valid findings when they provide proof of their identity. They will be advised in writing of any appealable justified/valid finding and of their right to an administrative appeal.

AUTHORITY NOTE: Promulgated in accordance with Louisiana Children's Code Article 616.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Community Services, LR 26:96 (January 2000), amended LR 31:1608 (July 2005), LR 36:840 (April 2010), amended by the Department of Children and Family Services, Division of Child Welfare, LR 44:1000 (June 2018), effective July 1, 2018, amended LR 45:218 (February 2019).

§1111. Child Protective Services Administrative Appeal

A. The Department of Children and Family Services (DCFS) establishes an administrative appeal process with the Division of Administrative Law (DAL). The purpose is to provide individuals the right to appeal DCFS Child Protective Services investigation findings of justified/valid. Any individual with a justified/valid finding of child abuse or neglect may request an appeal of their justified/valid finding directly with DAL.

B. Individuals with justified/valid findings in an investigation prior to August 1, 2018, will have the right to an administrative appeal of any/all of their DCFS findings of justified/valid. When a request for an SCR clearance is received by DCFS, or DCFS verifies that an individual has a justified/valid finding, and the individual is listed as a perpetrator with a justified/valid finding of abuse or neglect in an investigation prior to August 1, 2018; the individual will be notified in writing of their right to an administrative appeal. The individual will have 20 days from the date of the written notification to request an appeal through DAL.

C. Any individual notified of a DCFS justified/valid finding in an investigation subsequent to August 1, 2018, will have the right to an administrative appeal of any/all of

their DCFS findings of justified/valid. The individual will have 20 days from the date of the written notification to request an appeal through the DAL.

D. When DCFS receives a request for an SCR clearance on an individual who is a prospective or current employee in a licensed/registered child care setting by the Louisiana Department of Education, a current or prospective employee of an Office of Juvenile Justice juvenile facility, a current or prospective employee in a specialized provider, juvenile detention facility provider licensed by DCFS; or, a current or prospective employee of DCFS in a position whose duties include the investigation of child abuse or neglect, supervisory or disciplinary authority over children, direct care of a child, or performance of licensing surveys, they may request an expedited appeal. A request for an expedited appeal shall be submitted to DAL within 10 days of the date of the written notification. If the appeal is not submitted within the 10 days, the individual has 20 days from the date of the written notification to request a non-expedited appeal through DAL.

E. The appeal request, whether expedited or not expedited, shall include the DCFS written notification of their justified/valid determination. If no request for an appeal is timely submitted and confirmed by DAL, the individual's right to an administrative appeal is exhausted. DAL will provide notice of the filing of an appeal to the individual requesting an administrative appeal and DCFS.

F. The following provisions shall be applicable to all proceedings related to an administrative appeal request.

1. The administrative appeal hearing will be held in the DCFS region or parish where the justified/valid finding occurred, or in a location designated and agreed upon by all parties and DAL for convenience and accessibility, or as ordered by DAL.

2. Pursuant to R.S. 46:56, all proceedings related to an administrative appeal requested pursuant to this section shall be closed to the public.

3. Information that is contained in the record that is considered confidential pursuant to R.S. 46:56 shall not be released to the public.

4. Any relevant records and/or reports in individual cases may be released to parties, their counsel, or other legal representative upon the issuance of a discovery order signed by the administrative law judge assigned to the case. Under no circumstances shall any information that could identify the reporter of the abuse or neglect or any other non-discoverable information be released for discovery.

5. DCFS will bear the burden of proving by a preponderance of the evidence that the finding of justified/valid should be upheld.

G. When DCFS is notified by the DAL of an appeal decision to overturn an investigation finding, the department will modify the department's records to reflect the decision for each investigation finding overturned. DCFS will notify the individual of the new finding and the department's action as a result of the appeal decision(s). This notification shall include information on the maintenance period on the SCR and/or the state repository.

H. DAL notification that the justified/valid findings are upheld shall result in the individual being recorded as a perpetrator of abuse or neglect with a justified/valid finding, and; if the determination meets the criteria for a tier 1, 2, or 3 finding, the individual's name shall be listed on the SCR.

I. An individual's right to appeal is exhausted in the following circumstances:

1. the individual does not request an administrative appeal with DAL within 20 days of the date of the written notification of their right to appeal the DCFS determination;

2. the individual timely requests an administrative appeal with DAL, an appeal hearing is held and a written decision is rendered by DAL; or

3. the individual withdraws their appeal request.

J. Except as otherwise authorized by law, DCFS will not disclose the individual is listed on the SCR as a perpetrator of child abuse or neglect until their right to an administrative appeal is exhausted, and at least one justified/valid finding has been upheld that meets the criteria for a tier 1, 2, or 3 finding.

K. Within 30 calendar days after the mailing date listed on the notice of final decision by DAL, or if a rehearing is requested, within 30 calendar days after the date of the decision thereon, a party may obtain judicial review by filing a petition for review of the decision in the Nineteenth Judicial District Court or the district court of the domicile of the individual.

AUTHORITY NOTE: Promulgated in accordance with Act 348 of 2017 and Children's Code Article 616.1.1., and 42 USC 9858f.

HISTORICAL NOTE: Promulgated by the Department of Children and Family Services, Division of Child Welfare, LR 44:1002 (June 2018), effective July 1, 2018, amended LR 45:218 (February 2019), LR 45:1053 (August 2019).

§1135. Physician Notification

A. The Department of Children and Family Services establishes procedures for implementation of the physician notification, as required by R.S. 40:1086.11.

1. A physician identifying a newborn exhibiting symptoms of withdrawal or other observable and harmful effects in his physical appearance or functioning due to the use of a controlled dangerous substance, as defined by R.S. 40:961 et seq., in a lawfully prescribed manner by the mother during pregnancy shall use the DCFS form, physician notification of substance exposed newborns; no prenatal neglect suspected, to comply with the requirements of the Comprehensive Addiction and Recovery Act. The following form, which may be obtained from the DCFS website at www.dcfs.la.gov/, shall be used to notify DCFS.

Physician Notification of Substance Exposed Newborns
No Prenatal Neglect Suspected

LA DCFS: This notification does not constitute a report of child abuse and or neglect and shall be faxed to Centralized Intake at (225) 342-7768. This notification is used to notify DCFS newborns who exhibit symptoms of withdrawal or other observable and harmful effects in his physical appearance or functioning that a physician believes is due to the use of a controlled dangerous substance, as defined by R.S. 40:961 et seq., in a lawfully prescribed manner, by the mother during pregnancy. If a newborn is exhibiting withdrawal symptoms that are believed to be the result of unlawful use of a controlled dangerous substance; or, if you suspect abuse and or neglect including suspicion of prenatal neglect, you must contact the CPS Hotline at 1-855-4LA-KIDS to make a report of suspected child abuse/neglect.

Newborn's Information
Last Name: _____ First Name:_____
Date of Birth: __ __ / __ __ / __ __ __ __ Gender: ☐ Male ☐ Female
Race: ☐ White ☐ African American ☐ Asian/Pacific Islander ☐ Hispanic/Latino ☐ Other
Substances newborn was exposed to, if known: ☐ Amphetamines ☐ Barbiturates ☐ Opioids ☐ Opioid Agonist
☐ Benzodiazepines ☐ Other (List) _____
Was there a Neonatal Abstinence Syndrome screening completed? ☐ Yes ☐ No
Mother's Information
Last Name: _____ First Name:_____
Date of Birth: __ __ / __ __ / __ __ __ __
Race: ☐ White ☐ African American ☐ Asian/Pacific Islander ☐ Hispanic/Latino ☐Other
Marital Status: ☐ Single ☐ Married ☐ Separated ☐ Divorced ☐ Other ☐ Unknown
Address upon discharge: _____City: _____ State: _____ Zip Code: _____
Provider Information
Name of Hospital: _____ Notification Date: __ __/ __ __/ __ __ __ __
Physician's Name: _____
Address: _____City: _____ State: _____ Zip Code: _____
Other individuals who provided input for this notification (Name and Title):_____
Pertinent Discharge Referral(s) and Education
Referral(s), as applicable: ☐ Pediatrician ☐ Pediatric Specialist ☐ OB/GYN ☐ PCP ☐ Early Steps ☐ Medicaid
☐ Substance Use Disorder Assessment/Treatment ☐ Behavioral/Mental Health Services ☐ Housing
☐ Office of Public Health ☐ Other Referrals: _____
_____
Educational materials provided: ☐ Car Safety Seats ☐ Shaken Baby Syndrome ☐ Safe Sleep ☐ Early Steps
☐ Other Educational materials provided: (Specify) _____
_____
Additional comments regarding the needs of the newborn and family:
_____
_____
_____

2. The physician will complete the form with the following required information:

a. identifying information about the newborn;

b. substance to which the newborn was exposed;

c. identifying information about the mother;

d. identification of the physician who is providing the notification; and

e. plan of care for newborn and mother including a listing of educational materials provided, referrals made, additional discharge instructions, and information gained from the mother regarding care of the newborn.

3. The notifying physician shall transmit the form via fax to DCFS at (225) 342-7768.

B. DCFS shall monitor plans of care via the regional child welfare teams with multidisciplinary professionals to address the availability and delivery of the appropriate services for the newborn, affected caregiver and family.

C. DCFS shall maintain information on plans of care for the sole purpose of non-identifying data reporting as required by 42 USC 5106a(d). Information will be maintained for 24 months from the date of the notification to DCFS.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1086.11, Physician Notification.

HISTORICAL NOTE: Promulgated by the Department of Children and Family Services, Division of Child Welfare, LR 44:22 (January 2018).

Chapter 13. Intake

§1301. Child Protection Investigation Report Acceptance

A. Reports will be assigned for investigation when the circumstances of the report indicate either:

1. a cause to believe by the reporter that substantial risk of harm to the child is present and the child's physical, mental, or emotional health is seriously endangered as a result; or

2. the reporter has cause to believe that abuse or neglect has already occurred.

B. Reports of abuse and/or neglect which provide first hand information of an injury, or of evidence of an injury to a child, such as personal observation of photograph, names of witnesses, medical reports, or police reports, which cause a reporter to believe that a child has been injured or is at substantial risk of injury through the action or inaction of the child's caretaker will be investigated. It is important to understand that in all cases the reported circumstances of the child such as age, health, current condition, and the past history of the family and alleged perpetrator, such as access to the victim, history of violence or neglect, and parental willingness and/or ability to protect the child, could add information that will either establish or weaken the reason to believe that immediate and substantial risk of harm is likely to be present.

C. Response Time. The reports classified as presenting low risk of immediate substantial harm alleged will be assigned a response time of from 24 hours up to five calendar days from the date the report was received.

D. Anonymous Reports

1. Reports of alleged child abuse and neglect will be accepted from anonymous reporters.

2. OCS intake staff shall attempt to obtain the reporter's name and address so that follow up contacts are possible in order to clarify information contained in the report and to improve the assessment of risk to the child. The reporter shall be informed of the confidentiality of the reporter's identity and the legal protection from civil or criminal liability for reporters who report in good faith.

E. Bad Faith Reports

1. At any time when OCS staff has reason to believe that a report of child abuse and/or neglect has been made in bad faith, all available information shall be turned over to the district attorney for review.

2. This action would be taken when there is evidence that the reporter made a report known to be false or with reckless disregard for the truth of the report.

F. Residential Care of Children in State Custody. In order to provide some workload relief for child protection and foster care staff in the Office of Community Services, the positions assigned to the Gary W. Program will be transitioned consistent with the federal court's approval of conclusion of OCS activities in the Gary W. case, into monitoring and strengthening of residential foster care programs to prevent occurrence in Louisiana of abusive or neglectful conditions for foster children which resulted in the Gary W. judgment against the state of Louisiana.

G. Nonreports

1. According to the Guidelines for a Model System of Protective Services established by the National Association of Public Child Welfare Administrators, child protective services is a specialized field of child welfare which is not an appropriate service for all child and family-related problems. These guidelines have been used to assist staff in making a determination of those situations which do not constitute a report of child abuse and/or neglect. Response from the public during the recent hearings indicated that the majority of participants were in concurrence with these decisions.

2. Following is a listing of nonreports of child abuse and/or neglect. Brief explanations are included for clarity. If there is a need for medical, mental health, social, or other services to be provided to the child, his/her family, or the caretaker, appropriate referrals for such services will be made:

a. sexual activity with a sibling or minor perpetrator with no alleged parental/caretaker culpability;

b. sexual enticement/harassment and unspecified sexual abuse without a specific allegation of sexual abuse by caretaker or parent;

c. venereal disease in a child age 13 or older without a specific allegation of sexual abuse by caretaker/parent;

d. abandonment of a teenager whose parents want the agency to take custody due to conflict/behavior and other unspecific family or behavior problem which does not include abuse or neglect;

e. clothing inadequate which does not seriously endanger life or health of the child;

f. dependency due to the substance abuse or mental/physical limitation of a parent which does not incapacitate them from providing minimally acceptable care;

g. drug/alcohol abuse by a teenager with or without parental permission;

h. educational neglect reports shall be referred to the local school board which is charged under Louisiana law with responsibility for enforcing compulsory school attendance;

i. food inadequate when the reporter expresses concern about the family dietary choices which do not seriously endanger the development, health, or life of a child;

j. lack of supervision of a teenager 13 years or older unless mental capacity, physical condition or

situational factors indicate serious threat to life or health of the child;

k. medical neglect with no strong likelihood of serious consequences such as failure to provide corrective shoes, glasses, or orthodontia;

l. shelter inadequate which does not seriously endanger the life or health of a child.

H. Reports of abuse/neglect in family day care homes with no allegations of culpability in the abuse/neglect by parents or legal custodians will be assigned a level of risk based on the information provided by the reporter and referred to law enforcement and, when appropriate to the case circumstances, other agencies.

AUTHORITY NOTE: Promulgated in accordance with the Louisiana Children's Code, Article 612.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Community Services, LR 17:387 (April 1991), repromulgated LR 19:503 (April 1993), amended LR 25:1654 (September 1999), LR 28:102 (January 2002).

§1303. Time Limits on Acceptance of Reports

A. Reports will not be accepted when the time period from the alleged abuse or neglect occurrence to the date of the report exceeds the following limits.

1. Physical Abuse:

a. severe abuse (i.e., high priority) 12 months;

b. less severe (i.e., medium-low priority) three months unless documentation of the injury such as scars or medical records, continues to be available.

2. Neglect. One month unless the report includes several incidents which would indicate a continuing pattern of neglect.

3. Sexual Abuse. No time limit if the alleged victim remains a minor to whom the alleged perpetrator continues to have access. Reports over 12 months post-occurrence will not be accepted if the perpetrator no longer has access.

B. Reports in which the victim is no longer a minor will not be accepted regardless of time elapsed.

AUTHORITY NOTE: Promulgated in accordance with the Louisiana Children's Code, Article 612 G.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Community Services, LR 17:387 (April 1991).

Chapter 15. Conducting Investigations in Families

§1501. Audio Tape Recording of Interviews

A. All interviews of the child and his parents conducted in the course of a child protection investigation will be tape recorded, if requested by the parent or parents.

AUTHORITY NOTE: Promulgated in accordance with the Louisiana Children's Code, Article 612 C.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Community Services, LR 18:198 (February 1992).

§1505. Safe Haven Relinquishment

A. The DCFS establishes procedures for implementation of title XI, safe haven relinquishment, chapter 13, safe haven relinquishment, of the *Louisiana Children's Code*, as a collaborative effort with community agencies.

1. Prevent Child Abuse Louisiana and DCFS will provide toll-free lines for the public to inquire about safe haven relinquishment information, procedures and designated emergency care facilities. Parents who have relinquished an infant may contact the DCFS through the toll free hotline at 1-855-452-5437 or Prevent Child Abuse Louisiana at 1-800-244-5373 to inquire about their parental rights or anonymously provide medical information.

2. DCFS, the Department of Health, and community agencies will collaborate to identify facilities meeting the legal definition of a designated emergency care facility, develop and distribute the written notification to such facilities regarding the provisions of the statute, develop and distribute written information and training materials for facilities to use for the instruction of their staff designated to receive relinquished infants and interview parents, develop and distribute information materials to use to increase public awareness regarding safe haven relinquishment, and develop and distribute the notification to hospitals of the requirements of the medical evaluation and testing of a relinquished infant.

3. DCFS will work with community agencies to develop and distribute the card for designated emergency care facilities to give to relinquishing parents as required by article 1152.

4. The following image shall constitute the official safe haven symbol for use in identifying designated emergency care facilities to the public.

a. The text and image shall be black and the background either white or a shade of yellow typically used for traffic warning signs indicating the necessity of caution. The Department of Children and Family Services will transmit the symbol electronically to any designated emergency care facility upon their request.

B. The initial agency response to notification of a safe haven relinquishment will be within the DCFS Child Protective Services Program.

1. A report that an infant has been relinquished at a designated emergency care facility will be accepted as a

report of a safe haven relinquishment and immediately assigned to a child welfare worker. The worker will respond to secure the safety of the infant and obtain immediate medical care if the infant is at a location other than a medical facility able to provide the infant with immediate medical care, unless medical care has already been secured by the emergency care facility.

2. The worker will contact the appropriate court with juvenile jurisdiction and request an instanter order placing the infant in the custody of DCFS as a child in need of care.

3. The worker will contact local law enforcement agencies to request their assistance to determine if the relinquished infant may have been reported missing. The agency will also contact the national registry for missing and exploited children to determine if the infant has been reported missing to that registry.

C. Any relinquishing or non-relinquishing parent of a safe haven infant contacting the DCFS will be asked to voluntarily provide information as well as be informed of their rights as per article 1152.

D. Once the infant has received the required medical examination and testing and any other necessary medical care, and has been discharged from the medical facility providing emergency and/or other medical care, the DCFS will place the infant in the foster/adoptive home that can best provide for his needs. Efforts for the continuance of custody as a child in need of care and the procedure for a termination of parental rights will begin immediately and proceed in accordance with the provisions of titles VI, child in need of care, and XI, safe haven relinquishment. The infant will receive services through the DCFS foster care and adoption programs until the parental rights are terminated and an adoption is finalized or the mother and/or father establish parental rights.

AUTHORITY NOTE: Promulgated in accordance with Article 1149 et seq., of the *Louisiana Children's Code*, Title XI, Surrender of Parental Rights.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Community Services, LR 26:2196 (September 2000), amended LR 26:2826 (December 2000), LR 30:1703 (August 2004), amended by the Department of Children and Family Services, Child Welfare Division, LR 43:1726 (September 2017).

Title 67
SOCIAL SERVICES
Part V. Child Welfare
Subpart 5. Foster Care

Chapter 35. Payments, Reimbursables, and Expenditures

§3501. Procedures for Determining the Amount of Contribution Required by Parents Whose Children are in the Care and/or Custody of the State of Louisiana

A. At initial assessment when children enter the custody of the state, the gross income of the family shall be considered as a base from which to begin the assessment process. From this amount, parents are allowed a deduction of $1,500 per dependent in the home. This includes the children who were residing in the home prior to removal. The resulting figure shall be the adjusted family income which shall be used to determine the amount of contribution. The amount of the assessment shall be 10 percent of the adjusted family income divided into 12 monthly payments. The amount would be the same for the family regardless of the number of children in care, i.e., families which have the same adjusted income but different numbers of children in care would be billed the same amount.

B. At reassessment, only changes in the composition or income of the family will be considered in the calculation. Dependent deductions of $1,500 for family members in the home will continue to be allowed. The resulting figure is the adjusted family income. The amount shall be used to determine the amount of contribution. The yearly contribution shall be equal to 10 percent of the adjusted family income. The family will pay this one amount regardless of the number of children who are in care.

C. Parental contributions shall not be recommended if an existing child support order is in place or if good cause exists in a particular case. The exceptions for good cause shall be determined on a case by case basis by the case manager for reasons including, but not limited to short-term foster care placements; pending adoption proceedings; potential non-custodial parent placement; imminent termination of parental rights; or, when assessment is contrary to the case plan goals. These exceptions shall be documented in the case plan or court report.

D. By removal or voluntary placement into foster care of a child from the parent or another individual, the parent or individual shall be deemed, without the necessity of signing any document, to have made an assignment to the department of his entire right, title, and interest to any support obligation such parent or individual may have in his own behalf or on behalf of any family member for whom the parent is applying for or receiving foster care services which has accrued at the time of the placement of the child in foster care and which accrues during the time the child is in foster care. The assigned support rights shall constitute an obligation owed to the department by the person responsible for providing such support, and said obligation shall be established by an order of a court of competent jurisdiction, and the department may thereafter collect by appropriate process any outstanding debt thus created. Voluntary child support payments made to the parent or individual at the time of the placement of the child in foster care shall be deemed to have been assigned to the department, unless such is contrary to a valid court order. The department may thereafter collect such support payments by appropriate services. The parents or individual shall also be deemed, without the necessity of signing any document, to have consented to the designation of the department as payee in an initial or amended order of support and to have appointed the child support enforcement administrator as his or her true and lawful attorney-in-fact to act in his or her name, place, and stead to perform the specific act of endorsing any and all drafts, checks, money orders, or other negotiable instruments representing support payments which are received on behalf of such individual or his parent. The department shall be an indispensable party to any proceeding involving a support obligation or arrearages owed under this Subpart. The provisions of this Subpart shall apply retrospectively to all support rights assigned, whether by written assignment or by operation of law, prior and subsequently to the effective date of this rule. The parent or individual of services shall also be deemed without the necessity of signing any document to have appointed the child support enforcement administrator as his or her true and lawful attorney-in-fact to act in his or her name, place, and stead to perform the specific act of endorsing any and all drafts, checks, money orders, or other negotiable instruments representing support payments which are received on behalf of such individual or caretaker. No parent or individual who has had a child removed from the parent(s) custody or voluntarily placed the child in foster care on behalf of the parent or another individual shall be permitted to enter into a contract for the collection of support pursuant to R.S. 21:1441 et seq. Any such contract shall be considered a violation of public policy and shall be void.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:51.1.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Community Services, LR 17:1225 (December 1991), amended LR 36:73 (January 2010), amended by Department of Children and Family Services, Division of Child Welfare, LR 44:1856 (October 2018).

§3503. Reimbursement Rates for Residential Facilities

A. Office of Community Services (OCS) will implement a competitive solicitation process as a means to select all private residential facility-based programs to serve foster children and to establish per diem rates for that residential service. The department's published Prospective Provider Procedure will be followed. The department may adjust the cycle for the competitive solicitation process when the appointing authority of the OCS determines that an emergency situation exists or other exigent circumstances require the adjustment of the cycle in order to facilitate the provision of appropriate services to children.

B. Individuals and/or agencies currently providing residential services to OCS foster children and those that contact the Department of Social Services, Office of Community Services (OCS) wishing to provide residential services to foster children funded by OCS are placed on a prospective provider list. All persons and agencies on the list will be notified at the time that the office seeks to develop residential services for foster children in a specific geographic area. The current and prospective residential providers will be mailed a full description of the type and scope of programs sought in geographic areas along with an invitation to submit to OCS a proposal for that service. The notification will include a list of other materials that providers may request/need to assist proposers in preparation of their proposals. The name and telephone number of an OCS representative will be given to prospective providers to contact for more information.

1. A committee of professionals from OCS will evaluate the proposals according to criteria included in the packet of materials. The committee will select the program(s) most fitting the needs of the Foster Care Program.

C. Each proposal will include a submitted per diem cost bid with a budget in accordance with the instructions for the solicitation. This competitive process, resulting selections and final negotiations constitutes OCS' rate setting process as rates will be based on market economy and proposer's fiscal projections for programs. The final rate for each provider can be negotiated down from the bid rate, but in no case will be higher than the bid rate. The use of the residential beds at the rate set through this process will be done on a case-by-case basis by the OCS case worker(s) as the need arises. There are no guarantees of specific sums of monthly or annual payments or referrals of clientele.

D. The department reserves the right to cancel the solicitation if the expenditures for the aggregately selected proposals would result in OCS exceeding available funds. In the event the department cancels the solicitation process, the department will freeze the rates for the current programs at the current amount. For rates issued for the 2000/2001 rate year, the department continues freezing the rates at the 1999/2000 amount.

AUTHORITY NOTE: Promulgated in accordance with R.S.15:1084.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Community Services, LR 14:542 (August 1988), amended LR 20:898 (August 1994), LR 25:1144 (June 1999), LR 26:1342 (June 2000), LR 27:735 (May 2001), LR 32:645 (April 2006).

§3510. Percentage of Title IV-E Children in Foster Care over 24 Months

A. For the percentage of all children in foster care receiving assistance under the State Title IV-E Program who at any given time during the fiscal year will have been in foster care over 24 months, the department will limit that percentage to 55 percent of the total foster care population.

AUTHORITY NOTE: Promulgated in accordance with 42 USC Sec. 671 (A) (14) of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Community Services, LR 27:2263 (December 2001).

Chapter 37. Case Planning

§3701. Permanency Plan

A. Effective April, 1991, a case permanency plan shall be filed with the court when a child enters into custody of the department or into foster care, pursuant to or pending a child in need of care proceeding. The case permanency plan shall be filed no later than 60 days after the child comes into care.

AUTHORITY NOTE: Promulgated in accordance with Act 348 of the 1990 Legislative Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Community Services, LR 17:387 (April 1991).

Chapter 39. Chafee Foster Care Independence Program and Young Adult Program

§3901. Chafee Foster Care Independence Program

A. The Department of Children and Family Services, Child Welfare Division will provide a Chafee Foster Care Independence Program (CFCIP) to assist youth in making preparations for living independently, including, but not limited to résumé writing, budgeting, banking and other financial skills, and conflict management skills. The CFCIP provides opportunities for youth to interact with other youth from similar backgrounds, and to receive supportive services until 26 years of age, with the exception of educational assistance via the Chafee educational and training voucher (ETV), which is available until 23 years of age.

B. The DCFS will provide CFCIP services based upon the availability of funds, up to the maximum allowable amount funded by the federal Chafee Act, in compliance with the requirements of the program, and the varying identified needs of each youth.

C. Eligibility for the CFCIP is limited to youth who meet the requirements of the program and is based on the availability of federal funding. Participants should be either: DCFS foster youth from 14 years of age to age 18; foster

youth who aged out of foster care from 18 to 26 years old; foster youth who were adopted from foster care after 16 years of age to 26 years of age; Office of Juvenile Justice youth from 14 years of age to 26 years of age; youth in a court ordered guardianship from foster care initiated after 16 years of age to 26 years of age; and/or Native American youth from 13 years of age to 26 years of age who were in state or tribal custody. Youth in a secure placement (detention, jail, etc.) are not eligible for services provided by Chafee funds.

D. The allowable services and activities must be purposefully planned by the foster care worker and the youth to meet specific needs that have been identified and addressed in the youth's transitional living plan. The allowable services may include:

1. training delivered by Chafee independent living providers contracted with DCFS to prepare youth for living independently;

2. an assessment of independent living skills to identify which skills are needed and a written individualized transitional living plan, based on the assessment;

3. a monetary payment/stipend upon completing the CFCIP coursework and questionnaire, if resources allow;

4. assistance with obtaining an independent living arrangement and/or housing;

5. case management services; and

6. assistance with educational expenses, which could include educational and training voucher services, with need being determined by contracted providers.

AUTHORITY NOTE: Promulgated in accordance with 42. USC. 677 et seq.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Community Services, LR 35:2205 (October 2009), amended by the Department of Children and Family Services, Child Welfare Division, LR 44:908 (May 2018), effective June 1, 2018.

§3903. Extended Foster Care Services

A. The DCFS will continue to provide foster care services to young adults age 18 to 21 who are completing secondary education or a program leading to an equivalent credential, enrolled in institution that provides postsecondary or vocational education, participating in a program or activity designed to promote employment or remove barriers to employment, employed at least eighty hours per month, or is incapable of doing any part of the activities in the aforementioned due to a medical condition in accordance with R.S. 46:288.1, et seq. They shall be eligible for foster care services until their twenty-first birthday as long as the youth is willing and continues to meet the above stated eligibility criteria. The youth initiates extended foster care services through signing a voluntary placement agreement. The young adult in foster care shall be eligible for all foster care services in accordance with their voluntary placement agreement and case plan; and, their foster parents, custodian or other placement provider continued services and benefits for the period of time the young adult is eligible and participating in the extended foster care program.

B. The DCFS will notify all foster children and their foster parents/custodians/placement provider in writing of the availability of extended foster care services; eligibility for the services; and, the benefits at the foster child's seventeenth birthday. The written notifications will continue every 90 days unless the foster child and foster parents/custodian/placement provider consent to participate in extended foster care, or the child becomes ineligible for participation in the program.

AUTHORITY NOTE: Promulgated in accordance with Act 400 of the 2019 Regular Session and R.S. 46:288.1, et seq.

HISTORICAL NOTE: Promulgated by the Department of Children and Family Services, Child Welfare, LR 45:508 (April 2019), effective May 1, 2019, amended LR 47:36 (January 2021), effective February 1, 2021.

Chapter 41. Guardianship Subsidy Program

§4101. Subsidizing Guardianship Arrangements for Children in Foster Care

A. Overview of Program Purpose

1. The Subsidized Guardianship Program enables the Department of Children and Family Services (DCFS) to make payments to certified relative and fictive kin caregivers as well as certified caregivers with a significant familial bond with the child on behalf of a child who otherwise might not be able to achieve permanency outside of department custody because of special needs or other circumstances. Subsidy payments shall be limited to child(ren) for whom guardianship is indicated due to other more permanent options such as reunification with the parents, immediate unsubsidized custody to a relative or other caregiver, or adoption being determined unfeasible for the child. The guardianship subsidy applies only to a child(ren) for whom the DCFS holds legal custody, only to potential caregivers with whom the child has a significant familial bond; with whom it would be in the child's best interest to remain until the age of majority, and when the kinship placement provider or other caregiver with a significant familial bond becomes a certified foster caregiver according to the certification standards of the state, and, the child(ren) remains in the certified kinship placement or placement with the other caregiver with a significant familial bond for at least six consecutive months during the current foster care episode prior to entering the guardianship subsidy arrangement. The guardianship subsidy also applies to successor guardian(s) who meet the following criteria:

a. the successor guardian is named in the guardianship subsidy agreement with DCFS;

b. the successor guardian and all adult household members have satisfactorily completed national fingerprint based criminal and child abuse/neglect background clearances; and

c. guardianship is transferred by a court to the successor guardian in accordance with *Louisiana Children's Code* articles 718 through 724.1.

2. The prospective guardianship family must meet basic foster care certification eligibility requirements or the successor guardianship criteria in all respects except for the ability to assume complete financial responsibility for the child's care.

3. An extended guardianship subsidy may be provided to the guardians or successor guardians of a child who initially received a guardianship subsidy from DCFS after achieving the age of 16, but prior to achieving the age of 18, when the guardian continues to provide care for the child and the guardian remains responsible for financial support of the child, if the child meets the same eligibility criteria as children eligible for the department's extended foster care program.

B. Types of Subsidy Payments. The child may be subsidized for the following services up to age 18.

1. Maintenance. The maintenance subsidy includes basic living expenses such as board, room, clothing, spending money, and ordinary medical costs. The maintenance subsidy may be ongoing until the child reaches age 18, but must be renewed on a yearly basis. The maintenance subsidy may be renewed on the child's eighteenth birthday and extended up to age 21 if the guardian continues to provide care for the child and the guardian remains responsible for financial support of the child, if the child meets the same eligibility criteria as children eligible for the department's extended foster care program. This extended maintenance subsidy must be reviewed quarterly and may be renewed annually as long as the child continues to meet the same eligibility criteria as children eligible for the department's extended foster care program. This renewal will be dependent upon the child remaining in the care of the guardian or successor guardian with whom the subsidy agreement was established. The amount of payment shall not exceed 80 percent of the state's regular foster care board rate based on the monthly flat rate payments of the regular foster care board rate for the corresponding age group. Monthly maintenance payments shall not be based on subsidized foster care arrangements such as specialized foster care, alternate family care, or therapeutic foster care. Changes in the maintenance subsidy rate routinely only occur once a year and the adjustment is typically made at the time of the subsidy renewal, or due to a change in the child's age. Adjustments to the maintenance subsidy rate may also occur due to availability of funds, legislative changes or adjustments to the regular foster care board rate.

2. Special Board Rate. Foster parents entering into a guardianship agreement for a foster child for whom a special board rate was received during the foster care episode may request up to a maximum of $240 which is 80 percent of the special board rate amount of $300. This is only provided if the care and needs of the child in the guardianship arrangement warrant this same special board rate. The special board rate subsidy may be renewed on the child's eighteenth birthday and extended up to age 21 if the guardian continues to provide care for the child and the guardian remains responsible for financial support of the child, if the child meets the same eligibility criteria as children eligible for the department's extended foster care program. An extended special board subsidy for a child ages 18 to 21 must be reviewed quarterly and may be renewed annually as long as the child continues to meet the same eligibility criteria as children eligible for the department's extended foster care program. The continued need for the special board rate shall be reviewed at the time of the quarterly reviews. The review shall consist of a determination of whether the same level of specialized care by the guardian, for which the special board rate was being provided at the time of the initial subsidy agreement, continues to be necessary to meet the child's needs. Any reduction in the level of care required by the guardian or successor guardian should result in a decrease in the amount of special board rate compensation to the guardian.

3. Special Services

a. The special services subsidy is time limited and in some cases may be a one-time payment. It is the special assistance given to handle an anticipated expense when no other family or community resource is available. If needed, it can be offered in addition to the maintenance and special board rate subsidy. The special services subsidy must be established as a part of the initial guardianship subsidy agreement, and may not be provided or renegotiated based on any circumstances which develop or issues identified after that point. Special services subsidies include the following types of needs:

i. special medical costs deemed medically necessary for the daily functioning of the child for any condition existing prior to the date of the initial judgment establishing guardianship with the kinship caregiver or other caregiver with a significant familial bond and not covered by Medicaid or other insurance;

ii. ongoing therapeutic treatment costs to complete current therapy and future treatment costs on a time limited basis up to 18 years of age or for the duration of an extended subsidy for any eligible child, as department resources allow, related to the abuse/neglect received by the child and impacting the child's capacity to function effectively as part of the child's educational, family or social environment. This does not include the cost of residential care or psychiatric hospitalization, nor does it include therapeutic intervention for the sole purpose of providing behavior management assistance to the guardian;

iii. legal and court costs to the potential guardian family up to $1000 for children who are not title IV-E eligible and up to $2000 for children who are title IV-E eligible for establishing the guardianship arrangement. This service is only available for costs distinct and separate from the routine costs of the child in need of care proceedings to provide for costs to the potential guardian in establishing the guardianship arrangement. This legal and/or court fee will be

provided as a non-reoccurring, one-time payment for each guardianship episode.

b. Medicaid Eligibility. The child remains eligible for Medicaid coverage up to 18 years of age when entering a guardianship subsidy arrangement from foster care. This coverage will be eligible utilizing title IV-E federal benefits if the child was title IV-E eligible at the time of the subsidy arrangement. For children not eligible for title IV-E, this coverage will be provided through title XIX federal benefits or state general funds. For a Louisiana child who is placed out of state in a potential guardianship placement or who moves to another state after the establishment of a guardianship subsidy, if the child is eligible for title IV-E guardianship subsidy payments, the child is also categorically eligible for Medicaid in the state in which the child resides whether that state participates in the title IV-E Guardianship Subsidy Assistance Program or not.

c. Chaffee Foster Care Independent Living Skills Training and Education Training Voucher Eligibility. The child is eligible for consideration for participation in the Chaffee Foster Care Independent Living Skills Training and for Education Training Vouchers if the child initially enters a guardianship arrangement from foster care (not a successor guardianship) after reaching 16 years of age, as long as the child meets any other program eligibility requirements.

C. Exploration of Guardianship Resources

1. Before a child is determined by the Department of Children and Family Services (DCFS) as eligible for a guardianship subsidy, it must be determined the child cannot be reunited with the parents, and resources for adoptive placement must be explored by the child's worker. If the kinship family or other caretakers with a significant familial bond with the child and with whom the child is placed refuses to adopt the child or is unable to be certified as an adoptive family, the department has to show efforts to achieve the more permanent case goal of adoption for the child and demonstrate the benefits of maintaining the child in the placement in a guardianship arrangement as opposed to ongoing efforts in pursuing adoption or any other long term permanency arrangement. It is also necessary for the child's worker to discuss plans for a guardianship arrangement with the child and document the outcome of that discussion with the child, including agreement with that plan by any child 14 years of age up to 18 years of age. Lack of agreement by any child 14 years of age up to 18 years of age should be an ongoing topic of counseling regarding the benefits of the arrangement between the worker and the child, until a permanency option is achieved for the child or until the child attains 18 years of age.

2. Whenever an eligible child in the custody of DCFS is legally placed based on the interstate compact on the placement of children guidelines with a certified kinship caregiver or other certified caretaker with a significant familial bond with the child in another state, the family shall be eligible for a guardianship subsidy under the same conditions as Louisiana residents.

D. Eligibility Criteria

1. The DCFS, Guardianship Subsidy Program, will determine the appropriateness of subsidy benefits, the type of subsidy, and, the level of the subsidy. An agreement form between the DCFS and the prospective guardianship parent(s), with clearly delineated terms, including designation of a successor guardian, if desired, must be signed prior to the granting of the final decree for guardianship. This agreement will be reviewed on an annual basis thereafter by the DCFS to insure ongoing eligibility. Any extended guardianship subsidy for a child who has attained 18 years of age must be reviewed quarterly to ascertain ongoing eligibility.

2. Subsidy payments shall be limited to a child(ren) for whom guardianship is indicated due to other more permanent options such as reunification with the parents, or adoption being determined unfeasible for or not in the best interests of the child. The exception would be any child who has been receiving a subsidy payment and enters a successor guardianship. A more permanent option for placement is not required as these children do not re-enter state custody.

3. The guardianship subsidy applies only to a child(ren) for whom the DCFS holds legal custody, only to potential caregivers with whom the child has an established familial or emotional relationship which it is deemed to be in the child's best interest to continue, and when the kinship placement provider or other caregiver with a significant familial bond with the child becomes a certified foster caregiver according to the certification standards of the state, and, the child(ren) remains in the certified kinship/caregiver placement for at least six consecutive months during the current foster care episode prior to entering the guardianship subsidy arrangement. The exception would be children entering a successor guardianship. There is no requirement for the child to be in DCFS custody, to be with a caregiver with an established relationship, for certification of the caregiver, nor for a child to be placed with the successor guardian for any length of time prior to entering the guardianship subsidy arrangement.

4. A family is considered eligible for participation in the Guardianship Subsidy Program if they are related to the child or family of the child through blood or marriage or if there exists a fictive kin relationship, which is defined as a relationship with those individuals connected to an individual child or the family of that child through bonds of affection, concern, obligation, and/or responsibility prior to the child's original entry into the custody of the state, and the individual(s) are considered by the child or family to hold the same level of relationship with the child or family as those individuals related by blood or marriage. The exception would be an individual considered for the successor guardianship named by the guardian in the guardianship subsidy agreement with DCFS. Additionally, a family is eligible for participation in the Guardianship Subsidy Program if they have a significant familial bond with the child. This term is used to describe individuals with whom the child has a very close affinity who may or may not have been known to the child or his/her family prior to foster care entry. It is also intended to convey the importance

of the relationship to the well-being of the child in maintaining a connection into the future. The child demonstrates this bond through a strong attachment to the caregiver. A family with whom the child shares a significant familial bond could potentially include foster parents who are unable or unwilling to establish an adoptive relationship with the child in spite of DCFS efforts to overcome barriers to adoption, yet who are willing to commit to long term permanency through guardianship for the child. This is demonstrated by non-related family who have a significant and positive relationship with the child and who have a strong commitment to caring permanently for the child.

E. Effects of Deaths of Guardians on Guardianship Subsidy

1. When a child has been placed in an approved guardianship placement with a guardianship subsidy agreement in effect and the guardian dies prior to the child reaching the age of majority, the child's eligibility for a guardianship subsidy shall not be affected if a successor guardian was named in the original guardianship subsidy agreement. The child may remain in the care of a duly designated tutor/guardian as established by the guardian family prior to their death, without further involvement of the department. If the duly designated tutor/guardian requires financial assistance to maintain the care of the child and the individual was named in the guardianship subsidy agreement as a successor guardian, it is not necessary for the child to return to state custody and those individuals to become certified foster parents. Successor guardians named in the original guardianship subsidy agreement who take over financial responsibility for a child for whom the original guardians have been receiving an extended guardianship subsidy and the original guardians have died may receive the extended guardianship subsidy as well as long as the child continues to meet eligibility requirements up to the child achieving age 21.

2. If no successor guardian was named in the guardianship subsidy agreement, any individual otherwise legally designated as a tutor/guardian for the child and requiring financial assistance to sustain the care of the child would have to return the child to state custody and those individuals would have to become certified foster parents. Adoption of the child by the family should be explored as well, since adoption is a more permanent relationship for the child and family. If the family and home are determined to be safe for the care of the child through assessment of the home environment, fingerprint based criminal records clearance, and child abuse/neglect clearances, the child may remain in the care of the family while they are certified.

3. Where a guardianship subsidy agreement is in effect and the guardians both die prior to the child reaching the age of majority, the subsidy agreement will end. The child may remain in the care of a duly designated tutor/guardian as established by the family prior to their death, without further involvement of the department.

4.a. If the designated tutor/guardian requires financial assistance to maintain the care of the child, it will be necessary for the child to return to state custody and those individuals to become certified as foster parents and provide care to the child six consecutive months after certification and prior to entering into a guardianship subsidy agreement with the department. During the process of becoming certified as foster parents the family may continue to provide care to the child, as long as they are determined to be safe caregivers through a minimum of:

i. department assessment of the home environment;

ii. national fingerprint based criminal records clearances on all adults in the home; and

iii. child abuse/neglect clearances on all adults in the home.

b. Adoption of the child by the family will be explored by the department as well. There can be no financial support of the child by the child welfare agency while being cared for by the family until such family has been certified, other than incidental expenditures routinely reimbursed to other non-certified caregivers of children in foster care. Each guardianship arrangement is considered a new episode. Therefore, the department may provide legal and court costs to support the establishment of this new legal guardianship arrangement between the potential guardian and the child up to $1000 for children who are not title IV-E eligible and up to $2000 for children who are title IV-E eligible. No legal or court costs are provided for any guardianship arrangement established on or after the child's eighteenth birthday.

AUTHORITY NOTE: Promulgated in accordance with SEC. 473. [42 U.S.C. 673], and P.L. 115-123.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Community Services, LR 36:552 (March 2010), amended by the Department of Children and Family Services, Division of Programs, Child Welfare Section, LR 41:2308 (November 2015), amended by the Department of Children and Family Services, Division of Child Welfare, LR 45:1168 (September 2019), effective October 1, 2019.

§4103. Nonrecurring Expenses in Guardianship Arrangements

A. The Department of Children and Family Services (DCFS) sets forth criteria for reimbursement of nonrecurring expenses associated with establishing guardianship arrangements for children in foster care.

1. The amount of the payment made for nonrecurring expenses associated with establishing guardianship arrangements for children in foster care shall be determined through agreement between the guardian(s) and the DCFS. The agreement must indicate the nature and amount of the nonrecurring expenses to be paid.

2. The agreement for nonrecurring expenses must be signed prior to the final decree granting guardianship.

3. There must be no income eligibility requirement for guardian(s) in determining whether payments for nonrecurring expenses associated with establishing guardianship arrangements for children in foster care shall

be made. However, potential guardians cannot be reimbursed for out-of-pocket expenses for which they have otherwise been reimbursed.

4. The maximum rate of reimbursement for nonrecurring expenses has been set at $1000 for children who are not title IV-E eligible and up to $2000 for children who are title IV-E eligible per guardianship arrangement.

5. In cases where siblings are placed and guardianship arrangements established, whether separately or as a unit, each child is treated as an individual with separate reimbursement for nonrecurring expenses up to the maximum amount allowable for each child.

6. In cases where a child has been returned to the custody of the state and a guardianship arrangement dissolved, the child is allowed separate and complete reimbursement for nonrecurring expenses up to the maximum amount allowable for establishing another guardianship arrangement.

7. Reimbursement is limited to costs incurred by or on behalf of guardian(s) not otherwise reimbursed from other sources. Payments for nonrecurring expenses shall be made directly by the DCFS.

8. When the guardianship arrangement for the child involves interstate placement, Louisiana will only be responsible for paying the nonrecurring expenses for the arrangement for the child when Louisiana is the child's legal custodian and enters into the guardianship subsidy agreement with the caregiver.

9. The term nonrecurring expenses in relation to guardianship arrangements means reasonable and necessary legal fees, court costs, attorney fees and other expenses which are directly related to the legal establishment of the guardianship arrangement for a child in foster care, which are not incurred in violation of state or federal law, and which have not been reimbursed from other sources or other funds. Other expenses which are directly related to the legal establishment of the guardianship arrangement for a child in foster care means the costs of the arrangement incurred by or on behalf of the guardians and for which guardians carry the ultimate liability for payment. Such costs may include but are not limited to travel costs for the child and/or guardians to be present for the legal proceedings to establish the guardianship arrangement.

AUTHORITY NOTE: Promulgated in accordance with P.L. 110-351 and P.L. 113-183.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Community Services, LR 36:554 (March 2010), amended by the Department of Children and Family Services, Division of Programs, Child Welfare Section, LR 41:2310 (November 2015).

Title 67
SOCIAL SERVICES
Part V. Child Welfare
Subpart 6. Adoptions

Chapter 45. Adoption Registries

§4501. Louisiana Adoption Resource Exchange (LARE)

A. Within 90 days after termination of all parental rights or abandonment, or voluntary surrender to a child-caring agency, any child whose parents' rights have been so terminated and who has not been placed either in a private family home for the specific purpose of effecting an adoption or with a relative who expresses an intent to care for the child until majority, shall be registered with the Louisiana Adoption Resource Exchange (LARE). Upon request, the Department of Health and Human Resources, Office of Human Development, shall provide the forms necessary to effect said registration to all private child-caring agencies. Private child-caring agencies will be requested to include a recent 3" x 5" black and white photograph of each child registered.

B. The Department of Health and Human Resources, Office of Human Development, will maintain a list of the children registered with the Louisiana Adoption Resource Exchange. The listing will be updated no less often than quarterly and will be made available to all licensed child placement agencies in Louisiana. The listing will include a photograph of each child, but will not include the surname of the child or otherwise reveal the identities of the blood parents of the child.

C. As an effort to effect permanent placements by matching potential adoptive parents with available children, the Department of Health and Human Resources, Office of Human Development, may, under established guidelines, utilize media presentations for those children determined to be difficult to place. Subject to confidentiality requirements and the guidelines listed below, such presentations may include newspaper, radio, and television features depicting particular children, describing the adoption process, and explaining how persons interested in adoption may obtain information.

D. Guidelines for Media Recruitment

1. The Department of Health and Human Resources, Office of Human Development, may utilize media presentations involving children who are available for adoption to recruit homes for specific children and to recruit homes for general categories of children who are difficult to place. The children involved are those whose parents are dead, who were abandoned by their parents or in cases where parental rights have been terminated according to state laws. All children will be available for adoption or for a subsidized adoption program. The types of children considered by the agency as "hard to place" in adoptive homes include:

a. sibling groups;

b. black males (not infants);

c. adolescents (over age 10) of any race or sex;

d. children with handicapping (mental or physical) conditions. Most of these children have unique situations or have other extraordinary circumstances which led to their placement in this category.

2. Media recruitment can be used only after a child has been registered with the Louisiana Adoption Resource Exchange (LARE) and every possible effort has been made to find a permanent home for him regionally and statewide, through public and private agencies.

3. The child will be helped to understand to the best of his ability that he is available for adoption and that media recruitment may help in finding an adoptive home for him and other children in similar circumstances. No child will be forced to participate in media recruitment.

4. Media recruitment shall be subject to Louisiana Confidentiality Statutes (R.S. 46:65) as interpreted by the Department of Health and Human Resources, Office of General Counsel. No identifying information concerning the child or his biological parents can be revealed. The social circumstances of the child and his birth parents must be considered in determining appropriate media resources for the child. Media recruitment may not be used within a region where a child's background and circumstances are generally known to the public and could result in embarrassment and humiliation to the child or his biological parents.

5. The child shall be videotaped or photographed in comfortable surroundings while engaged in casual conversation and/or an activity which interests him and reflects his usual level of functioning and ability to interact with other people. The accompanying narrative would give descriptive information about the child's hobbies, interests and abilities and his expressed desires for an adoptive home.

6. Regional homefinders and adoption specialists shall be designated to coordinate media recruitment for their region with the consultation of the Office of Human Development State Office and the Department of Health and Human Resources, Public Information Office.

7. Only free media resources will be used for publicizing recruitment efforts, such as public service announcements, special programming and news programs.

The production of these presentations will be accomplished either by Department of Health and Human Resources or by the media resource and supervised by Department of Health and Human Resources.

AUTHORITY NOTE: Promulgated in accordance with Act Number 429 of the 1981 Louisiana Legislature.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Human Development, LR 8:13 (January 1982).

§4503. Reserved (for National Registries)

§4505. State Voluntary Registry

A. Eligibility Requirements for Registration. Only persons who meet the following criteria shall be eligible for services of the Department of Health and Human Resources Voluntary Adoption Registry:

1. effective September 6, 1991, adoptees and birth parents may register in the State Voluntary Register when the adoptee reaches 18 years of age;

2. the biological mother of the adopted child;

3. the biological father of the child if:

a. the father has signed a voluntary release for the child's adoption in accordance with R.S. 9:402 and R.S. 9:422.3 et seq.; or

b. the father has legitimated the child as provided by law.

B. Procedures for Registration. Voluntary registration by the adopted person and/or the biological parents of the adopted person shall be by a typewritten affidavit, filed with the Office of Human Development, Division of Evaluation and Services. All affidavits filed must contain certain minimum identifying information as specified by law. Any other information which the applicant feels will be useful in making the match between the adopted person and the biological parent(s) of the person may be added.

C. Fees for Voluntary Registration. The affidavit submitted to Department of Health and Human Resources, Office of Human Development/Division of Evaluation and Services must be accompanied by a check or money order payable to Department of Health and Human Resources, Office of Human Development/Division of Evaluation and Services in the amount of $25. The fee is charged to cover the cost of establishing the file of registrants and other costs to the Office of Human Development in providing this service.

D. Mandatory Counseling Requirement. Within 30 days of registration with the Office of Human Development, the registrant shall be required to participate in not less than one hour of counseling with a board certified social worker or a social worker employed by a licensed adoption agency. The Office of Human Development will provide the names and addresses of participating agencies to provide counseling service in the state of Louisiana. An adopted person or a biological parent who is domiciled outside the state of Louisiana shall obtain counseling from an appropriate agency in his state of domicile. The licensed adoption agency or social worker shall collect the cost of counseling services from persons who are able to pay all or part of the cost of services provided.

E. Matching the Adopted Person and the Biological Parent

1. The Office of Human Development shall regularly monitor registrant affidavits to determine whether or not affidavits have been filed by an adopted person and his biological parent(s). If there appears to be a match between an adopted person and a biological parent, the Office of Human Development shall notify a licensed adoption agency located in or near the parish residence of the adopted person. The agency notified shall delegate a social worker in its employ or a BCSW to contact the registered and matched parties in a careful and confidential manner, and give the information necessary to contact each other.

2. If the Office of Human Development has any doubt that there is a match between the adopted person and biological parent the parties shall be advised to petition the district court having jurisdiction to open the sealed adoption record for verification. The court may appoint an ad hoc curator for this purpose.

F. Time Limit on Registration

1. The registration will remain in effect indefinitely. The registration may be withdrawn by the adoptee or birth parent at any time by a written request.

2. If both birth parents of an adopted person are deceased and if this fact is known by the Office of Human Development or the licensed adoption agency which originally placed the adopted person, this information shall be disclosed to the adopted person.

G. Confidentiality. Notwithstanding the provisions of R.S. 44:1 et seq., documents filed with the Office of Human Development, pursuant to the provisions of this law shall be confidential and not available for inspection; nor shall any information acquired by the Voluntary Registry be disclosed under any sunshine or freedom of information legislation, rules, or practice. No person, group of persons, or entity may file a class action to force the voluntary registry to disclose identifying information.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:91(D) and 92(B) as amended and re-enacted by Act 519 of the 1991 Session of the Louisiana Legislature.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Human Development/Division of Evaluation Services, LR 9:415 (June 1983), amended by the Department of Social Services, Office of Community Services, LR 18:80 (January 1992), promulgated LR 18:198 (February 1992).

Chapter 47. Adoption Services

§4701. Voluntary Surrender of a Child

A. Persons who execute an act of legal surrender of a child to the Department of Health and Human Resources shall execute therewith a written statement of family history.

That statement shall contain the following non-identifying information, if known:

1. ages of the biological parents; and

2. an explicit and extensive medical genetic history of the biological parents and their immediate families.

B. This statement will be made part of the sealed adoption record and shall be given to the adoptive parents at the time of adoptive placement. Upon attaining the age of 18, the adoptee shall, upon request, be given a copy of the statement.

C. Within 15 days following an act of voluntary surrender of a child to the Department of Health and Human Resources, a copy of the surrender will be sent to the court exercising jurisdiction over the child.

AUTHORITY NOTE: Promulgated in accordance with Acts 717 and 429 of the 1981 Louisiana Legislature.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Human Development, LR 7:630 (December 1981).

Chapter 49. Adoption Subsidy Program

§4901. Subsidizing the Adoption of Children with Special Needs

A. Overview of Program Purpose

1. The Subsidized Adoption Program enables the Department of Children and Family Services to make payments to adoptive parents on behalf of a child who otherwise might not be adopted because of special needs or circumstances. Subsidy payments shall be limited to a child(ren) for whom adoption is indicated but placement through existing resources is unavailable because of the child's physical or mental condition, race, age, membership in a sibling group which should not be separated, or other serious impediments or special needs. The adoption subsidy applies to a special needs child for whom the Department of Children and Family Services holds full and permanent custody prior to the adoptive placement or to a special needs child, SSI or AFDC eligible, for whom a private nonprofit agency holds custody and to nonrecurring adoption expenses only for special needs children who are adopted independently. The adoption subsidy may be extended for children who were adopted from foster care and initially began receiving the subsidy after age 16, but prior to age 18, if the adoptive parents remain financially responsible for the child, and the child meets the same eligibility criteria as children eligible for the department's Extended Foster Care program. No child may have an adoption subsidy initiated for the first time after age 18. The adoption laws of the state of Louisiana shall be adhered to, and the granting of a subsidy shall not affect the legal status of the child nor the rights and responsibilities of the adoptive parents.

2. The prospective adoptive family must meet basic adoption eligibility requirements in all respects except for the ability to assume complete financial responsibility for the child's care.

B. Types of Subsidy. The child may be subsidized for the following services up to age 18, or up to age 21 if eligible for an extension of the adoption subsidy.

1. Maintenance. The maintenance subsidy includes basic living expenses such as board, room, clothing, spending money, and ordinary medical and dental costs. The maintenance supplement may be ongoing, but must be renewed on a yearly basis. An extension of an adoption subsidy for youth who have turned 18 must be reviewed quarterly to ensure ongoing eligibility, but only needs to be renewed annually as long as eligibility criteria continue to be met. The amount of payment shall not exceed 80 percent of the state's regular foster care board rate based on the monthly flat rate payments for the corresponding age group. Changes in the maintenance subsidy rate care may occur once a year and the adjustment is made at the time of a change in the child's age group. The monthly maintenance shall not be based on specialized foster care arrangements such as subsidized foster care, alternate family care, or therapeutic foster care.

2. Special Board Rate

a. Foster parents adopting a foster child for whom a special board rate was received may request up to a maximum of 80 percent of the special board rate amount of $300. This includes adoptive parents who were not previously certified as the child's foster parent(s), if the care and needs of the child in the adoptive home warrant this same special board rate. Therefore, under the Adoption Subsidy Program, the special board component for these type homes shall not exceed $240. The continued need for the special board rate shall be reviewed at the time of the annual review for children under age 18. At age 18, the extension of an adoption subsidy shall be reviewed a minimum of quarterly.

b. For the child placed in a Subsidized Foster Home, Alternate Family Care facility, or a Therapeutic Family Care facility, the maximum amount of the special board component of the adoption subsidy shall not exceed $258. This amount equals the Flexible Family Fund (monitored by the Office for Citizens with Developmental Disabilities and the Office of Behavioral Health and administered by the 10 human service districts/authorities) authorized for the care of children with severe emotional disturbance or severe intellectual/developmental disabilities who are in their own homes.

3. Special Services

a. The special services subsidy is time limited and in some cases may be a one time payment. It is the special assistance given to handle an anticipated expense when no other family or community resource is available. If needed, it can be offered in addition to the maintenance subsidy. Special services subsidies include the following type needs:

i. special medical costs for the child in connection with any physical or mental condition which existed prior to the date of the initial judgment of adoption;

ii. psychiatric, or psychological expenses, special equipment, prosthetic devices, or speech therapy;

iii. other services determined to be medically necessary for the care, training and education of the child; and

iv. legal and court costs of adoption under special circumstances.

b. Assessment must be made of the adopting family's medical insurance and of other public and voluntary community services to determine whether the costs of treatment and related costs can be covered in part or in whole by insurance and by other community services.

c. Reimbursement for special services will be limited to the usual and customary fee in the community where such services are rendered.

C. Exploration of Adoptive Resources

1. Before a child is certified by the Division of Child Welfare as eligible for a subsidy, resources for adoptive placement without such benefits must be explored by the adoption worker. This will include recruitment of adoptive parents, registrations for a reasonable period on state, regional, and/or national adoption resources exchanges, and referral to appropriate specialized adoption agencies.

2. Whenever an eligible child has been available for adoption for at least six months and every reasonable effort has been made to place the child for adoption with Louisiana residents, adoptive parents from other states shall be eligible for a subsidy under the same conditions as Louisiana residents, except where the other state has a Subsidized Adoption Program that is available to such non-resident parents.

D. Eligibility Criteria

1. Non IV-E Placements

a. The income scale determining eligibility for the non IV-E maintenance subsidy shall be utilized by the Department of Children and Family Services, Division of Child Welfare to determine eligibility for non IV-E benefits. The scale is based on 60 percent of Louisiana's median income for a family of four, adjusted for family size as published by the U.S. Department of Health and Human Services. Figures in the column on the left refer to the number of family members, including the adoptive child(ren). Figures in the column on the right refer to family gross income. Persons living in the household who are not dependent on the adoptive family's income even though related, are not counted. Families whose income falls below the figures in the right column may apply for subsidy.

b. The Division of Child Welfare, Adoption Subsidy Program, will determine the appropriateness of subsidy benefits, the type of subsidy, and the level of the subsidy. An agreement form between the Division of Child Welfare and the prospective adoptive parents with clearly delineated terms must be signed prior to the granting of the final decree.

c. Income Chart

Family Size	Gross Annual Income
1 person	$23,371
2 persons	$30,562
3 persons	$37,753
4 persons	$44,944
5 persons	$52,135
6 persons	$59,326
7 persons	$60,674
8 persons	$62,022
9 persons	$63,371
10 persons	$64,719
11 persons	$66,067
12 persons	$67,416
13 persons	$68,764
14 persons	$70,112

d. For each additional family member above six persons, add three percentage points to the percentage for a six-person household (132 percent), and multiply the new percentage by 60 percent of the state's estimated median income for a four-person household.

2. IV-E Placements. Federal regulations prohibit the use of an income eligibility requirement (means test) for prospective adoptive parents in determining the availability of payments or other types of adoption assistance. The eligible child who has met the "special needs" requirements in Section 473(c) of the Social Security Act will be eligible for payments and other types of services and assistance under the Title IV-E Adoption Assistance Program. Parents with whom such a child is placed for adoption are eligible to receive Title IV-E payments and other assistance on behalf of that child, under an agreement with the state agency.

3. A child adopted from foster care after age 16 but prior to age 18 and receiving an adoption subsidy already may be allowed an extension of the adoption subsidy if requested by the family for the adoptive family to continue receiving the adoption subsidy payments on behalf of the child after the child turns 18 and up to age 21 as long as the family retains financial responsibility for the child, the child meets the same eligibility criteria as children eligible for the department's Extended Foster Care program and all other eligibility criteria for the original subsidy remain in effect. Ongoing eligibility must be reassessed by DCFS/CW quarterly, but renewal of the subsidy only completed annually. If notified by the family the child and family are no longer eligible or interested in receiving the extended subsidy; or, if at reassessment it is determined the child and family are no longer eligible for the extended subsidy, the subsidy shall be ended immediately.

E. Effects of Deaths of Adoptive Parents on Adoption Subsidy

1. Where an adoption subsidy agreement is in effect and the adoptive parents die prior to the adopted child reaching the age of majority, the duly designated tutor or guardian of the child may continue to receive subsidy payments on behalf of the child provided that the tutor or guardian is capable of providing a permanent home for the

child in all respects other than financial, and the child's needs are beyond the resources of the tutor or guardian. In these situations, the child who was Title IV-E eligible prior to the death of the adoptive parent(s) shall cease being eligible for these federal benefits. The child's medicaid certification as a Title IV-E adoption subsidy child shall be closed and re-opened as a non IV-E adoption subsidy child. The tutor or guardian should be encouraged to apply for survivors benefits for the child and/or AFDC.

2. It is extremely important to note that if the child is Title IV-E eligible, Section 473(a)(i) of the Social Security Act (the Act) prohibits the transfer of this benefit to the guardian. The Act makes no provision for payments to be made to the child or others, such as a tutor/guardian. Therefore, in these situations, the payments made by the Adoption Subsidy Program are funded with all state dollars.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1790-1792 and P.L. 96-272 (Title IV-E).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Human Development, LR 4:388 (October 1978), repealed by the Department of Social Services, Office of Community Services, LR 18:79 (January 1992), promulgated and amended LR 18:966 (September 1992), amended by the Department of Children and Family Services, Division of Child Welfare, LR 46:11 (January 2020), effective February 1, 2020.

§4903. Nonrecurring Expenses in Adoptions

A. The Division of Child Welfare sets forth criteria for reimbursement of nonrecurring expenses associated with the adoption of children with special needs.

1. The amount of the payment made for nonrecurring expenses of adoption shall be determined through agreement between the adopting parent(s) and the Division of Child Welfare. The agreement must indicate the nature and amount of the nonrecurring expenses to be paid.

2. The agreement for nonrecurring expenses must be signed prior to the final decree of adoption.

3. There must be no income eligibility requirement (means test) for adopting parents in determining whether payments for nonrecurring expenses of adoption shall be made. However, parents cannot be reimbursed for out-of-pocket expenses for which they have otherwise been reimbursed.

4. To be eligible, the child must meet the criteria previously established by the Division of Child Welfare to be designated as a "child with special needs". Furthermore, the child must have been placed for adoption in accordance with applicable statelaws.

5. The rate of reimbursement for nonrecurring expenses has been set at $1,000 per adoption.

6. In cases where siblings are placed and adopted, whether separately or as a unit, each child is treated as an individual with separate reimbursement for nonrecurring expenses up to the maximum amount allowable for each child.

7. Reimbursement is limited to costs incurred by or on behalf of adoptive parents that are not otherwise reimbursed from other sources. Payments for nonrecurring expenses shall be made directly by the Division of Child Welfare.

8. When the adoption of the child involves interstate placement, the state that enters into an adoption subsidy agreement will be responsible for paying the nonrecurring adoption expenses of the child. In cases where there is interstate placement but no agreement for other federal or state adoption assistance (subsidy), the state in which the final adoption decree is issued will be responsible for reimbursement of nonrecurring expenses if the child meets the definition of a "child with special needs".

9. The term *nonrecurring adoption expenses* means reasonable and necessary adoption fees, court costs, attorney fees and other expenses which are directly related to the legal adoption of a child with special needs, which are not incurred in violation of state or federal law, and which have not been reimbursed from other sources or other funds. Other expenses which are directly related to the legal adoption of a child with special needs means the costs of the adoption incurred by or on behalf of the parents and for which parents carry the ultimate liability for payment. Such costs may include the adoption home study, including health and psychological examinations, supervision of the placement prior to finalization of the adoption, transportation and the reasonable costs of lodging and food for the child and/or the adoptive parents when necessary to complete the placement or adoption process.

AUTHORITY NOTE: Promulgated in accordance with 45 CFR Part 1356, as published in the *Federal Register* on December 14, 1988, Section 1711 of the Tax Reform Act of 1986 as it relates to the Adoption Assistance Program under Title IV-E, and Act 345 of the 1990 Legislative Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Community Services, LR 17:386 (April 1991), amended by the Department of Children and Family Services, Division of Child Welfare, LR 46:12 (January 2020), effective February 1, 2020.

Chapter 51. Adoption Petition Program

§5101. Certificate of Adoption in Private Adoptions

A. Any prospective adoptive parent in a private adoption shall obtain a Certificate of Adoption prior to physically receiving the child except when the child is the step-child, grandchild, sibling, niece, or nephew of one of the prospective adopting parents.

B. Definitions

1. *Certificate of Adoption*—a person who applies to adopt a child privately is certified as qualified to adopt in accordance with the Louisiana Children's Code. A Certificate of Adoption is valid a minimum of two years and a maximum of four years without an update being required. A Certificate of Adoption can be revoked for just cause.

2. *Any Prospective Adoptive Parents* (in this Section)—any couple who is adopting any child except

persons who may petition for intrafamily adoption. The following persons may petition for an intrafamily adoption:

a. a stepparent married to the parent of a legitimate child;

b. a single grandparent or married grandparents of a legitimate child when the child has been in the grandparent's home for six months prior to the filing of a petition for adoption.

When the spouse of the stepparent or one joint petitioner dies after the petition has been filed, the adoption proceedings may continue as though the survivor was a single original petitioner.

C. There are two procedures by which a valid Certificate of Adoption may be obtained by any prospective adoptive couple in Louisiana attempting to adopt privately. Any out-of-Louisiana prospective adoptive couple must also comply with the Louisiana Interstate Compact on Placement of Children.

1. The prospective adoptive couple may apply for a court order approving the placement of a child in their home. The court shall be of proper venue in state of Louisiana.

a. The application for court approval of adoptive placement shall be verified and shall contain the following:

i. the name, address, age occupation, and marital status of the prospective adoptive parents;

ii. expected date of the child's placement;

iii. relationship between the child and the prospective adoptive parent, if any;

iv. the name of the child whose placement is requested, if known.

b. This application for court approval of adoptive placement shall be filed with the clerk of a court of appropriate venue as authorized in Louisiana's Children's Code.

c. The application for court approval of adoptive placement shall be set for hearing in chambers, confidentially, and in a summary manner within 48 hours of its filing.

d. At the hearing, the prospective adoptive parents shall testify under oath concerning their fitness to receive the child into their care and custody, including but not limited to:

i. their moral fitness, previous criminal records or validated complaints of child abuse or neglect, if any;

ii. their mental and physical health;

iii. their financial capacity and disposition to provide the child with food, clothing, medical care, and other material needs;

iv. their capacity and disposition to give the child love, affection, and guidance and to undertake the responsibilities of becoming the child's parents;

v. the adequacy of the physical environment of their home and neighborhood for the placement of the child;

vi. the names and ages of other family members who would reside with the child in the prospective adoptive home and their attitude toward the proposed adoption;

vii. the stability and the permanence, as a family unit, of the proposed adoptive home.

e. At the conclusion of the hearing, the court shall render an order approving or disapproving the placement of the child with the prospective adoptive parents.

f. The order shall be in writing and signed by the judge.

g. A certified copy of the court order approving the adoptive placement shall be given to the prospective adoptive parents. This certified court order is the certificate of adoption if approval is granted.

h. Any order disapproving the adoptive placement shall include specific reasons therefor.

i. Any perjury, withholding of information or misleading statements, during this hearing, may be grounds for revocation of the Certificate of Adoption, or for revoking the adoption itself.

j. The court may issue an instanter order taking protective custody of the child if this information, if known, together with other evidence presented at the hearing would have resulted in the court's disapproval of the adoptive placement.

2. The second procedure for obtaining a Certificate of Adoption is that any person qualified to adopt in Louisiana may request a social worker in the employ of a licensed child placing agency, a board certified social worker, or a licensed counselor, psychologist, or psychiatrist to conduct a home study before the physical placement of the child in the home. Those people or agencies doing the home study shall be licensed in their respective fields in the state of Louisiana.

a. This home study must address, as appropriate, in writing, all the items in the following Sections of the *Louisiana Administrative Code*, namely:

i. LAC 48:I.4115.C—Adoptive Home Study;

ii. LAC 48:I.4115.D—Notification Regarding Application;

iii. LAC 48:I.4115.E—Access to Records;

iv. LAC 48:I.4115.F—Updating Home Study;

v. LAC 48:I.4115.H—Review Procedure;

vi. LAC 48:I.4115.I—Adoptive Parents' Records.

b. In addition to the home study, the application for Certificate of Adoption must also contain a request for the court to order a criminal records check for all federal and state arrests and convictions, and validated complaints of child abuse or neglect, respectively, in this or any other state specified for each prospective adoptive parent. This check

shall provide a certificate indicating all information discovered or that no information has been found.

c. Attorneys representing prospective adoptive couples living in Louisiana for private adoptions must request the court having jurisdiction to order a Louisiana child abuse/neglect records check from the Division of Child Welfare's Regional Office for the parish of residence of the prospective adoptive couple with the results of said check to be submitted in writing to the court. The court order shall be sent to the attention of the Adoption Petition Unit.

d. The mailing addresses of the regional offices of the Division of Child Welfare where this form may be obtained are as follows:

i. Greater New Orleans;

(a). Jefferson District, Box 10009, Jefferson, LA, 70181;

(b). Orleans District, Regional Office, 1450 Poydras Street, Suite 1600, New Orleans, LA, 70112;

ii. Baton Rouge Regional Office, Box 3318, Baton Rouge, LA 70821;

iii. Lafayette Regional Office, 825 Kaliste Saloom Rd, Lafayette, LA 70508;

iv. Lake Charles Regional Office, Box 1486, Lake Charles, LA 70602;

v. Alexandria Regional Office, Box 8557, Alexandria, LA 71306;

vi. Shreveport Regional Office, 1525 Fairfield Avenue, Shreveport, LA 71101-4388;

vii. Monroe Regional Office, Box 3047, Monroe, LA 71210;

viii. Thibodaux Regional Office, 1416 Tiger Drive, Thibodaux, LA 70301;

ix. Covington Regional Office, 351 Holiday Blvd., Covington, LA 70433.

e. The prospective adoptive couple at the end of this home study shall be given a Certificate of Adoption if favorable in the judgment of the contracted person doing the home study in accordance with Louisiana's Children's Code. If there is a disapproval, the prospective adoptive couple shall be informed in writing of the reason for the disapproval.

f. Payment of the home study is at the petitioner's expense.

D. The Department of Children and Family Services, Division of Child Welfare in carrying out the duties as detailed in the Children's Code, Title XII, Chapter 10, Article 1229 (A) shall include in the report to the court a copy of the Certificate of Adoption for the prospective adoptive couple or report to the court in writing that no Certificate of Adoption has been obtained in accordance with the Louisiana Children's Code.

AUTHORITY NOTE: Promulgated in accordance with the Children's Code, Title XII, Chapter 2.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Community Services, LR 18:747 (July 1992), amended by the Department of Children and Family Services, Division of Child Welfare, LR 46:13 (January 2020), effective February 1, 2020.

§5103. When the Petitioner Is the Stepparent of the Adoptee

A. DCFS/CW shall no longer provide a full investigation and court report in stepparent adoptions unless so ordered by the court. Henceforth, adoption petition workers shall investigate stepparent adoptions only to the extent necessary. The investigation shall:

1. determine the availability of the child for adoption; and

2. where the child is age 13 or over, determine the circumstances of the child and his/her attitude toward the adoption.

B. The investigation and court report shall cover the following areas depending on the circumstances of the case.

1. Availability of the child for adoption:

a. name, birthdate and birthplace of child as verified by birth certificate when available;

b. relationship of child to petitioner(s);

c. legal status of petitioner(s) i.e., verification of current marriage and previous deaths/divorces effecting status;

d. name of legal/biological parents and information concerning their attitude about the adoption and awareness of the implications.

2. Information on the child:

a. child under 13:

i. age of the child(ren);

ii. length of time child has resided with the petitioner(s);

iii. how the child came into the home of the petitioner(s);

b. child 13 or over:

i. age of the child(ren);

ii. length of time child has resided with the petitioner(s);

iii. how the child came into the home of the petitioner(s);

iv. description of child including physical characteristics, personality, general health (no physical exam required), grade placement, and activities;

v. child's adjustment;

vi. child's relationship with petitioners and others in the home.

AUTHORITY NOTE: Promulgated in accordance with R.S. 9:427.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Human Development, Division of Evaluation and Services, LR 10:342 (April 1984), amended by the Department of Children and Family Services, Division of Child Welfare, LR 46:13 (January 2020), effective February 1, 2020.

§5105. Intercountry Adoptions

A. The Department of Children and Family Services, Division of Child Welfare, hereby adopts Intercountry Adoptions Policy. This policy authorizes certain consenting licensed private child placing agencies to conduct and certify the validity of home studies; to contract with qualified professionals to complete home studies; and to certify the validity of home studies completed by professionals under contract with them to complete home studies; certifying to the U.S. Immigration and Naturalization Service that the Louisiana prerequisite of a valid home study has been completed as required before an intercountry adoption can be consummated.

AUTHORITY NOTE: Promulgated in accordance with the United States Immigration and Nationality Act of 1952, as amended (Title 8, U.S.C. aliens and nationality).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Human Development, LR 7:408 (August 1981), amended by the Department of Children and Family Services, Division of Child Welfare, LR 46:13 (January 2020), effective February 1, 2020.

Title 67
SOCIAL SERVICES
Part V. Child Welfare
Subpart 7. Payment of Legal Fees in Child Protection Cases

Chapter 59. Legal Representation of Children and Indigent Parents Pursuant to R.S. 46:460.21

§5901. Implementation of New Statewide System of Legal Representation of Children and Indigent Parents

A. Full implementation of the new statewide system of legal representation of children and indigent parents in child protection cases is effective July 1, 2010.

B. Pursuant to implementation of the new statewide system consistent with the expedited implementation plan unanimously approved by the Task Force on Legal Representation in Child Protection Cases, the department will not pay for ad hoc legal representation of children or indigent parents for services provided after June 30, 2010 or services in new cases during the January 1 – June 30, 2010 transition period.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:460.21.

HISTORICAL NOTE: Promulgated by the Department of Children and Family Services, Child Welfare Section, LR 36:2523 (November 2010).

§5903. DSS Final Payment to ad hoc Attorneys Appointed Prior to January 1, 2010

A. Subject to available funds pursuant to R.S. 46:460.21, the department will pay properly documented and authorized requests for payment of services of *ad hoc* attorneys who were appointed to represent children and/or indigent parents prior to January 1, 2010 and delivered services through June 30, 2010. The department will not pay for legal representation services delivered to children or indigent parents for *ad hoc* appointment made in new cases on or after January 1, 2010. Attorneys shall follow the former billing procedures when submitting requests for payment. To be considered for payment, attorneys must submit properly documented and authorized requests for payment to the department by July 16, 2010.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:460.21.

HISTORICAL NOTE: Promulgated by the Department of Children and Family Services, Child Welfare Section, LR 36:2523 (November 2010).

Title 67
SOCIAL SERVICES
Part V. Child Welfare
Subpart 8. Residential Licensing

Chapter 67. Maternity Home

§6701. Fee

NOTE: This Section has been moved from LAC 67:I.1701.

A. There is an annual licensure fee of $50.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:477 and R.S. 46:1401-1424.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, Division of Licensing and Certification, LR 13:246 (April 1987), repromulgated by the Department of Social Services, Office of the Secretary, Bureau of Residential Licensing, LR 33:2694 (December 2007), repromulgated by the Department of Social Services, Office of Community Services, LR 35:1570 (August 2009), amended LR 36:799 (April 2010).

§6703. Definitions

A. A *maternity home* is defined as "any place or facility in which any institution, society, agency, corporation, person or persons, or any other group regularly receives and provides necessary services for children before, during, and immediately following birth. This definition shall not include any place or facility which receives and provides services for women who receive maternity care in the home of a relative within the sixth degree of kindred, computed according to civil law, or general or special hospitals in which maternity treatment and care is part of the medical services performed and the care of children only brief and incidental.

B. Additional Definitions

1. Definitions, as used in this Chapter:

Affiliate—

i. with respect to a partnership, each partner thereof;

ii. with respect to a corporation, each officer, director and stockholder thereof;

iii. with respect to a natural person:

(a). that person and any individual related by blood, marriage, or adoption within the third degree of kinship to that person;

(b). any partnership, together with any or all its partners, in which that person is a partner; and

(c). any corporation in which that person an officer, director or stockholder, or holds, directly or indirectly, a controlling interest;

iv. with respect to any of the above, any mandatory, agent, or representative or any other person, natural or juridical acting at the direction of or on behalf of the licensee or applicant; or

v. director of any such maternity home.

Age or Developmentally Appropriate Activities or Items—activities or items that are generally accepted as suitable for children of the same chronological age or level of maturity or that are determined to be developmentally appropriate for a child, based on the development of cognitive, emotional, physical, and behavioral capacities that are typical for an age or age group; and in the case of a specific child, activities or items that are suitable for the child based on the developmental stages attained by the child with respect to the cognitive, emotional, physical, and behavioral capacities of the child.

Contractor—any person who renders professional services, therapeutic services, enrichment services, or counseling to residents and/or infants of residents such as educational consulting, athletic, or artistic services within a maternity home, whose services are not integral to either the operation of the maternity home or to the care and supervision of residents and/or infants of residents. Contractors may include, but are not limited to social workers, counselors, dance instructors, gymnastic or sports instructors, computer instructors, speech therapists, licensed health care professionals, art instructors, state-certified teachers employed through a local school board, and other outside contractors. A person shall not be deemed a contractor if he/she is a staff person of the maternity home.

Department (DCFS)—Department of Children and Family Services, formerly the Department of Social Services.

Disqualification Period—the prescriptive period during which the department shall not accept an application from a provider. Any unlicensed operation during the disqualification period shall interrupt running of prescription until the department has verified that the unlicensed operation has ceased.

Division of Licensing and Certification—Department of Children and Family Services, Licensing Section.

Effective Date—of a revocation, denial, or non-renewal of a license shall be the last day for applying to appeal the action, if the action is not appealed.

Facility—any place, program, facility or agency operated or required by law to operate under a license,

including facilities owned or operated by any governmental, profit, nonprofit, private, or church agency.

License—

i. any license issued by the department to operate any child care facility or child-placing agency as defined in R.S. 46:1403; or

ii. any license issued by the Department of Health and Hospitals to operate any facility providing services under Title XIX or XX of the Social Security Act; or

iii. any license issued by the Department of Health and Hospitals (or formerly issued by the Department of Social Services) to operate any adult residential care facility.

Licensing Section—DCFS, Division of Programs, Licensing Section.

Mandated Reporter—professionals who may work with children in the course of their professional duties and who consequently are required to report all suspected cases of child abuse and neglect. This includes any person who provides training and supervision of a child, such as a public or private school teacher, teacher's aide, instructional aide, school principal, school staff member, social worker, probation officer, foster home parent, group home or other child care institution staff member, personnel of maternity home facilities, a licensed or unlicensed day care provider, any individual who provides such services to a child, or any other person made a mandatory reporter under Article 603 of the Children's Code or other applicable law.

Owner or *Operator*—individual or juridical entity exercising direct or indirect control over a licensed entity.

a. For licensing purposes the following are considered owners:

i. *Individual Ownership*—individual and spouse listed on the licensing application submitted and who have access to the residents and/or infants of residents in care of the provider and/or residents and/or infants of residents who receive services from the provider and/or who are present at any time on the facility premises when residents and/or infants of residents are present;

ii. *Partnership*—all limited or general partners and managers who are listed on the licensing application submitted and who have access to the residents and/or infants of residents in care of the provider and/or residents and/or infants of residents who receive services from the provider, and/or who are present at any time on the facility premises when residents and/or infants of residents are present;

iii. *Church Owned*, *University Owned* or *Governmental Entity*—any clergy and/or board member who is listed on the licensing application submitted and who has access to the residents and/or infants of residents in care of the provider, and/or residents and/or infants of residents who receive services from the provider, and/or who is present at any time on the facility premises when residents and/or infants of residents are present; or

iv. *Corporation* (includes limited liability companies)—individual(s) who is registered as an officer of the board with the Louisiana Secretary of State and/or listed on the licensing application submitted and who has access to the residents and/or infants of residents in care of the provider, and/or residents and/or infants of residents who receive services from the provider, and/or who is present at any time on the facility premises when residents and/or infants of residents are present.

Ownership—the right that confers on a person direct, immediate, and exclusive authority over a thing. The owner of a thing may use, enjoy, and dispose of it within the limits and under the conditions established by law. Refers to direct or indirect ownership.

i. *Direct Ownership*—when a natural person is the immediate owner of a child care facility, i.e., exercising control personally rather than through a juridical person.

ii. *Indirect Ownership*—when the immediate owner is a juridical entity.

Provider—all owners or operators of a facility, including the director of such facility.

Reasonable and Prudent Parent Standard—standard that a caregiver shall use when determining whether to allow a child in foster care under the responsibility of the State to participate in extracurricular, enrichment, cultural, and social activities. The standard is characterized by careful and sensible parental decisions that maintain the health, safety, and best interests of a child while at the same time encouraging the emotional and developmental growth of the child.

Reasonable and Prudent Parent Training—training that includes knowledge and skills relating to the reasonable and prudent parent standard for the participation of the child in age or developmentally appropriate activities. This includes knowledge and skills relating to the developmental stages of the cognitive, emotional, physical, and behavioral capacities of a child and knowledge and skills relating to applying the standard to decisions such as whether to allow the child to engage in social, extracurricular, enrichment, cultural, and social activities. Activities include sports, field trips, and overnight activities lasting one or more days. Also included is knowledge and skills in decisions involving the signing of permission slips and arranging of transportation for the child to and from extracurricular, enrichment, and social activities.

Reasonable Suspicion—to have or acquire information containing specific and articulable facts indicating that an owner, operator, current or potential employee, or volunteer has been investigated and determined to be the perpetrator of abuse and/or neglect of a minor with a justified (valid) finding currently recorded on the state central registry.

Resident—a pregnant female who has not reached her eighteenth birthday or otherwise been legally emancipated and receives care at the maternity home before childbirth

and within 6 weeks after childbirth. The resident may not reside in the home with her parents nor be related to the owner of the facility.

Staff—all full or part-time paid or unpaid staff who perform services for the maternity home and have direct or indirect contact with children at the facility. Facility staff includes the director and any other employees of the facility including, but not limited to the cook, housekeeper, driver, custodian, secretary, and bookkeeper.

State Central Registry (SCR)—repository that identifies individuals with certain justified (valid) findings of abuse and/or neglect of a child or children by the Department of Children and Family Services.

Unlicensed Operation—operation of any child care facility or child-placing agency, adult residential care facility, or transitional youth residence, at any location, without a valid, current license issued by the department.

2. Disqualification of Facility and Provider

a. If a facility's license is revoked or not renewed due to failure to comply with state statutes and licensing rules, the department shall not accept a subsequent application from the provider for that facility or any new facility for a minimum period of two years after the effective date of revocation or non-renewal or a minimum period of two years after all appeal rights have been exhausted, whichever is later (the disqualification period). Any pending application by the same provider shall be treated as an application for a new facility for purposes of this Section and shall be denied and subject to the disqualification period. Any subsequent application for a license shall be reviewed by the secretary or their designee prior to a decision being made to grant a license. The department reserves the right to determine, at its sole discretion, whether to issue any subsequent license.

b. Any voluntary surrender of a license by a facility facing the possibility of adverse action against its license (revocation or non-renewal) shall be deemed to be a revocation for purposes of this rule, and shall trigger the same disqualification period as if the license had actually been revoked.

c. In addition, if the applicant has had a substantial history of non-compliance, including but not limited to revocation of a previous license, operation without a license, or denial of one or more previous applications for licensure, the department may refuse to accept a subsequent application from that applicant for a minimum period of two years after the effective date of denial.

d. With respect to an application in connection with the revoked, denied, or not renewed facility, the disqualification period provided in this Section shall include any affiliate of the provider.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:477 and R.S. 46:1401 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, Division of Licensing and Certification, LR 13:246 (April 1987), repromulgated by the Department of Social Services, Office of the Secretary, Bureau of Residential Licensing, LR 33:2694 (December 2007), repromulgated by the Department of Social Services, Office of Community Services, LR 35:1570 (August 2009), amended LR 36:799, 835 (April 2010), repromulgated LR 36:1275 (June 2010), amended by the Department of Children and Family Services, Child Welfare Section, LR 36:2521 (November 2010), amended by the Department of Children and Family Services, Division of Programs, Licensing Section, LR 38:968 (April 2012), LR 42:220 (February 2016), amended by the Department of Children and Family Services, Licensing Section, LR 45:514 (April 2019), effective May 1, 2019, LR 46:666 (May 2020), effective June 1, 2020.

§6704. Authority

A. Penalties

1. All maternity homes, including facilities owned or operated by any governmental, profit, nonprofit, private, or church agency shall be licensed.

2. As mandated by R.S. 46:1421, whoever operates any child care facility or child-placing agency as defined in R.S. 46:1403, including any maternity home, without a valid license issued by the department shall be fined not less than $1,000 per day for each day of such offense.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1421.

HISTORICAL NOTE: Promulgated by the Department of Children and Family Services, Division of Programs, Licensing Section, LR 39:66 (January 2013).

§6705. Application

NOTE: This Section has been moved from LAC 67:I.1705.

A. An initial application for licensing as a maternity home provider shall be obtained from the department.

Department of Children and Family Services Licensing Section
P.O. Box 260036
Baton Rouge, LA 70826
Phone: (225) 342-4350
Fax: (225) 219-4363
Web address: www.dcfs.louisiana.gov

1. Prior to the initial license being issued to a maternity home, an initial licensing inspection shall be conducted on-site at the maternity home to ensure compliance with all licensing standards. No resident or infant of a resident shall be provided services by the maternity home until the initial licensing inspection has been performed, all deficiencies cleared, requested information received, and the department has issued an initial license. If the provider is in operation in violation of the law, the licensing inspection shall not be conducted. In these instances, the application shall be denied and DCFS shall pursue legal remedies.

2. Once the maternity home provider is compliant with all licensing laws and standards, required statutes, ordinances, rules, regulations, and fees, the department may issue a license to the provider. The license shall be valid until the expiration date shown on the license, unless the license is revoked or suspended. When a license is modified,

a new license shall be issued. The license with the most current issue date supersedes all other licenses issued.

B. Posting of Notices of Revocation.

1. The notice of revocation of the license shall be prominently posted.

a. The Department of Social Services shall prominently post a notice of revocation action at each public entrance of the maternity home facility within one business day of such action. This notice must remain visible to the parents, guardians, placing agencies, and other interested parties of children who reside the facility.

b. It shall be a violation of these rules for a provider to permit the obliteration or removal of a notice of revocation that has been posted by the department. The provider shall ensure that the notice continues to be visible to the general public, other placing agencies, parents, guardians, and other interested parties throughout the pendency of any appeals of the revocation.

c. The provider shall notify the department's child residential licensing in writing immediately if the notice is removed or obliterated.

d. Failure to maintain the posted notice of revocation required under these rules shall be grounds for denial, revocation or non-renewal of any future license.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:477, R.S.46:1401-1424 and R.S. 46:1414.1.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, Division of Licensing and Certification, LR 13:246 (April 1987), repromulgated by the Department of Social Services, Office of the Secretary, Bureau of Residential Licensing, LR 33:2694 (December 2007), repromulgated by the Department of Social Services, Office of Community Services, LR 35:1570 (August 2009), amended LR 36:799, 841 (April 2010), amended by the Department of Children and Family Services, Child Welfare Section LR 36:1462 (July 2010), LR:46:667 (May 2020), effective June 1, 2020.

§6707. Licensing Procedures

NOTE: This Section has been moved from LAC 67:I.1707.

A. A social services consultant of the division's staff will prepare a comprehensive survey of the home's program, measuring performance in relation to requirements and offering recommendations and suggestions in indicated areas. This report will be made available to the facility for review of facts prior to submission to the director of the Division of Licensing and Certification for a decision on the license. A home has the right to appeal through the court if its license is denied or revoked.

B. The licensing report is held confidential by the division but must be released to persons or courts upon request.

C. A maternity home which is operated in conjunction with other programs subject to license, such as child caring and/or child placing programs, shall obtain a license for each of its programs.

D. The email address provided to the Licensing Section on the licensing application is the official email address unless the provider subsequently submits written notification of a change of email address to the Licensing Section and the request is acknowledged as received by licensing staff.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:477 and R.S. 46:1401-1424.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, Division of Licensing and Certification, LR 13:246 (April 1987), repromulgated by the Department of Social Services, Office of the Secretary, Bureau of Residential Licensing, LR 33:2694 (December 2007), repromulgated by the Department of Social Services, Office of Community Services, LR 35:1570 (August 2009), amended LR 36:799 (April 2010), amended by the Department of Children and Family Services, Licensing Section, LR 46:667 (May 2020), effective June 1, 2020.

§6708. General Provisions

A. Conditions for Participation in a Child-Related Business

1. Owners shall have a fingerprint-based criminal background check through the Federal Bureau of Identification (FBI) on file with the maternity home in accordance with R.S. 46:51.2 and 15:587.1.

a. This check shall be obtained prior to the license being issued, the addition of a board member who meets the definition of an owner, an individual being present on the premises, or an individual having access to residents and/or infants of residents.

b. No person shall own, operate, or participate in the management or governance of a maternity home until such person has submitted his or her fingerprints through the FBI and it has been determined that such person has not been convicted of, or pled guilty or *nolo contendere* to any crime listed in R.S. 15:587.1(C).

c. No person who has been convicted of, or pled guilty or nolo contendere to any offense included in R.S. 15:587.1(C), shall own, operate, or participate in the management or governance of a maternity home.

d. Any owner or operator who is convicted of, or pled guilty or nolo contendere to any crime listed in R.S. 15:587.1(C) shall not continue in the management or governance after such conviction, guilty plea, or plea of nolo contendere.

2. The following is a listing of individuals by organizational type who are required to submit documentation of a satisfactory fingerprint-based criminal background clearance through the FBI.

a. *Individual Ownership*—individual and spouse listed on the licensing application submitted and who have access to the residents and/or infants of residents in care of the provider and/or residents and/or infants of residents who receive services from the provider and/or who are present at any time on the facility premises when residents and/or infants of residents are present;

b. *Partnership*—all limited or general partners and managers who are listed on the licensing application submitted and who have access to the residents and/or infants of residents in care of the provider and/or residents and/or infants of residents who receive services from the provider, and/or who are present at any time on the facility premises when residents and/or infants of residents are present;

c. *Church Owned, University Owned* or *Governmental Entity*—any clergy and/or board member who is listed on the licensing application submitted and who has access to the residents and/or infants of residents in care of the provider, and/or residents and/or infants of residents who receive services from the provider, and/or who is present at any time on the facility premises when residents and/or infants of residents are present; or

d. *Corporation* (includes limited liability companies)—individual(s) who is registered as an officer of the board with the Louisiana Secretary of State and/or listed on the licensing application submitted and who has access to the residents and/or infants of residents in care of the provider, and/or residents and/or infants of residents who receive services from the provider, and/or who is present at any time on the facility premises when residents and/or infants of residents are present.

3. When an individual is listed on the licensing application or the Secretary of State's website as an officer and does not have access to residents and/or infants of residents in care or who receive services from the provider and/or is not present at any time on the facility premises when residents and/or infants of residents are present, a DCFS approved attestation form signed and dated by the individual is acceptable in lieu of a satisfactory fingerprint-based CBC through the FBI. The attestation form shall be accepted for a period of one year from the date individual signed attestation form.

4. Effective May 1, 2019, CBCs/attestation forms shall be dated prior to the initial license being issued, but no earlier than 45 days prior to the initial application being received by the Licensing Section, or the individual being present on the premises, or having access to residents and/or infants of residents.

5. Providers and staff shall not permit an individual convicted of a sex offense as defined in R.S. 15:541 to have physical access to a maternity home as defined in R.S. 46:1403.

6. The owner or director of a maternity home shall be required to call and notify law enforcement personnel and the Licensing Section management staff if they have knowledge that a registered sex offender is on the premises of the maternity home. The verbal report shall be followed by a written report to the Licensing Section within 24 hours. The owner or director of a maternity home shall be required to call and notify law enforcement personnel if they have knowledge that a registered sex offender is within 1,000 feet of the maternity home as required by R.S 14:91.1.

B. State Central Registry

1. All owners shall have documentation of a state central registry clearance as required in §6712.

C. Reasonable and Prudent Parent Standard

1. The provider shall designate in writing at least one on-site staff person as the authorized representative to apply the reasonable and prudent parent standard to decisions involving the participation of a child who is in foster care and placed in the facility in age or developmentally appropriate activities. The staff person(s) designated as the authorized representative shall be at the licensed location at all times during the facility's hours of operation. Licensing shall be notified in writing within five calendar days if there is a change to one of the designated representatives.

2. The authorized representative shall utilize the reasonable and prudent parent standard when making any decision involving the participation of a child who is in foster care and placed in the facility in age or developmentally appropriate activities.

3. The authorized representative shall receive training or training materials shall be provided on the use of the reasonable and prudent parent standard. Documentation of the reasonable and prudent parenting–training shall be maintained. The reasonable and prudent parent training or training materials, as developed or approved by DCFS, shall include, but is not limited to the following topic areas:

a. age or developmentally appropriate activities or items;

b. reasonable and prudent parent standard;

c. role of the provider and of DCFS; and

d. allowing for normalcy for the child while respecting the parent's residual rights.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1401 et seq.

HISTORICAL NOTE: Promulgated by the Department of Children and Family Services, Division of Programs, Licensing Section, LR 38:969 (April 2012), amended LR 42:220 (February 2016), amended by the Department of Children and Family Services, Licensing Section, LR 45:515 (April 2019), effective May 1, 2019, LR 46:667 (May 2020), effective June 1, 2020.

§6709. Organization and Administration

NOTE: This Section has been moved from LAC 67:I.1709.

A. Purpose

1. There shall be a written statement specifying the purpose of the maternity home. This statement shall be one which has been adopted by the governing body. All functions of the maternity home shall be stated in its charter, or articles, when the home operates under one of these.

2. It shall be clear from the practices of the home that the purposes for which it was declared to be established are being met.

3. The governing body shall adopt a supplementary statement of any new function which is added to the program of the maternity home.

B. Governing Body

1. There shall be a responsible governing body which shall be of the following:

a. a board of local citizens elected or appointed for that purpose;

b. a religious, fraternal, charitable organization, or veteran's organization; or

c. a public authority.

2. This governing body shall exercise sufficient authority so that it can reasonably be held responsible for the practices within the maternity home.

3. The governing body shall have the power to appoint or dismiss the executive director and shall carry responsibility for the direction of the program.

4. If the governing body is a national or regional organization and has a local advisory board or committee, minutes of the local group setting forth changes in policies and administrative decisions affecting the local operation shall be made available to the licensing authority.

C. Administrative Responsibilities

1. There shall be one person employed by the governing body to serve as superintendent or executive director. This person shall be responsible for the administration of the maternity home.

2. The agency executive director or superintendent shall be responsible for the direction and supervision of all personnel employed in the maternity home.

3. The duties, responsibilities, and authority of each staff member shall be clearly defined specifying:

a. where responsibilities, and authority rest for each of his or her functions within the maternity home;

b. that no responsibility or authority shall conflict with another.

4. The duties, responsibilities, and authority of each board committee working directly with staff shall be clearly defined.

5. The following personnel practices shall be observed:

a. the Division of Licensing and Certification shall be notified promptly when there is a change of executive director within the period covered by a license, this notification shall include a statement of the qualifications of the new employee;

b. only such staff members who are qualified for the duties assigned by virtue of ability, health, age, emotional stability, education, and experience shall be employed and retained in employment;

c. a written statement shall be given to the employee at the time of employment setting forth the duties that will be assigned to him, to whom he is directly responsible, and conditions of employment, including official responsibilities, salary, hours of work, sick leave, retirement benefits, vacations, and the notice he will be expected to give or receive in case of resignation or release;

d. no person shall be required to do work in contravention of the labor laws of the state of Louisiana or the United States;

e. the governing body of the maternity home shall be encouraged to participate in a retirement plan for the employees, such coverage may be the home's own retirement plan or Retirement Survivors' and Disability Insurance.

D. Resources

1. The maternity home shall prepare an annual budget adequate to finance the program. The budget shall be prepared for the maternity home's fiscal year and shall clearly indicate all sources of income as well as anticipated expenditures.

2. The maternity home partially dependent on board payments to carry out its functions shall have sufficient funds available to continue care until other plans can be made for residents should contributions cease.

3. The governing body shall not assign to the personnel of the maternity home the responsibility for fund raising.

4. Soliciting funds shall be the responsibility of the governing body or of a special officer appointed for this purpose.

E. Auditing of Accounts

1. Accounts of the maternity home shall be audited annually by an independent certified public accountant or by a public authority.

F. Personnel Plan

1. An executive director shall be employed whose qualifications include a basic year's training in an accredited school of social work, or three years of successful experience in a recognized social agency, or five years successful experience in closely allied fields such as nursing, education, or ministry.

2. A caseworker shall be employed who meets the following qualifications: completion of one basic year in an accredited school of social work and one year of experience in a family or children's agency. The experience may be waived if the facility employs a casework supervisor with the same qualifications as the supervisor in a child placing agency.

3. A case aide or aides may be employed with the following qualifications: a B.A. or B.S. degree in social work or a related field. This person shall be closely supervised by the casework supervisor.

4. A full-time resident staff person shall be employed when the superintendent does not live at the home. The resident staff person's qualifications shall include:

a. a high school education;

b. at least two years successful experience in allied fields such as practical nursing, household management, housemother experience;

c. an ability to accept and work with expectant mothers;

d. an ability to supervise assistant resident staff persons; and

e. be over the age of 21.

5. Assistant staff person, with the following qualifications, shall be employed when the population requires it:

a. a high school education;

b. an ability to accept and work with expectant mothers; and

c. be over the age of 21.

6. There shall be on call at all times an employee who is a graduate nurse or practical nurse.

a. The graduate nurse must have a current license to practice nursing in the state of Louisiana.

b. The practical nurse must have a current license to practice in the state of Louisiana.

7. Sufficient clerical staff shall be employed to keep correspondence, records, bookkeeping system, and files current and in good order. Expectant mothers receiving care in the maternity home shall not be used in this capacity. Clerical staff shall be selected in relation to ability to understand the confidentiality of the work and to respect the program.

8. Sufficient domestic staff shall be employed so that the major and heavy household duties are not assigned to the expectant mothers or become the duties of the resident staff person. Domestic staff shall be selected in relation to ability to understand the confidentiality of the work and to respect the program.

9. All employees living or working within an institution shall be required to obtain a written statement from a physician certifying that the employee is free from venereal disease, tuberculosis, and other infectious or contagious disease. This statement shall be obtained prior to employment, or immediately thereafter and annually during employment.

10. Resident staff shall be provided with quarters which insure reasonable privacy and rest during hours off duty. In addition, provision shall be made for personal belongings and bathing and toilet facilities separate from those used by expectant mothers.

11. Foster homes which are used in lieu of a congregate home shall meet the standards outlined for foster homes in "Minimum Requirements for License of Child Placing Agencies", published by the Division of Licensing and Certification.

G. Staff

1. There shall be on duty at all times one adult serving in the capacity of resident staff. In addition, an alternate person shall be on call. There shall be one adult on the staff designated as the assistant to the resident staff who will also serve as relief resident staff.

2. In small maternity homes, it may be necessary for one employee to serve in more than one capacity. When this practice is followed, the employee shall be well qualified by training and experience for the different duties assigned.

H. Influenza Notice to Parents. In accordance with Act 343 of the 2009 Regular Legislative Session, providers shall make available to each child's parent or legal guardian information relative to the risks associated with influenza and the availability, effectiveness, known contraindications and possible side effects of the influenza immunization. This information shall include the causes and symptoms of influenza, the means by which influenza is spread, the places a parent or legal guardian may obtain additional information and where a child may be immunized against influenza. The information shall be updated annually if new information on the disease is available. The information shall be provided annually to each licensed facility by the Department of Social Services and shall be made available to parents or legal guardians prior to November 1 of each year.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:477 and R.S. 46:1401-1424.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, Division of Licensing and Certification, LR 13:246 (April 1987), repromulgated by the Department of Social Services, Office of the Secretary, Bureau of Residential Licensing, LR 33:2694 (December 2007), repromulgated by the Department of Social Services, Office of Community Services, LR 35:1571 (August 2009), amended LR 36:330 (February 2010), amended LR 36:799 (April 2010), repromulgated LR 36:1030 (May 2010).

§6710. Criminal Background Checks

A. Criminal Background Checks—Current Owners as of June 1, 2020

1. Effective June 1, 2020, and in accordance with public law 115-123 and R.S. 1587.1, provider shall submit a request for a fingerprint-based criminal background check through the Federal Bureau of Investigation (FBI) for all owners/operators. The request for the FBI check shall be submitted no later than June 12, 2020. Documentation of submission shall be available for review and submitted upon request of the Licensing section.

2. Upon notification that the owner/operator has been convicted of a crime listed in R.S.15:587.1(C), the owner/operator shall no longer be eligible to own, operate, or participate in the governance or management of the maternity home. The owner/operator can voluntarily close

the business or if he/she chooses not to close the business, the license shall be immediately revoked. If the owner/operator is a member of the board or clergy, the provider shall submit a signed, dated statement to Licensing within 24 hours or no later than the next business day after the notification has been made indicating that the individual has resigned or been relieved of his position with the effective date of the resignation/removal. If the statement is not received within the aforementioned timeframe, the license shall be immediately revoked. Provider shall also submit documentation to Licensing within seven calendar days of the notification being made verifying that the individual's name has been removed from the Secretary of State's website if owned by a corporation.

3. Upon notification that additional information is required in order to make a decision, the provider has seven calendar days to submit the requested information to the requesting agency. Documentation of the date the requesting agency requested additional information shall be available for review. If the information is not submitted as requested within seven calendar days, the owner/operator shall not be present at the agency. However, if the information is not submitted within 30 calendar days, owner/operator can voluntarily close the business or if he/she chooses not to close the business, the license shall be immediately revoked. If the owner/operator is a member of the board or clergy, the provider shall submit a signed, dated statement to Licensing within 24 hours or no later than the next business day after the thirtieth day indicating that the individual has resigned or been relieved of his position with the effective date of the resignation/removal. If the statement is not received within the aforementioned timeframe, the license shall be immediately revoked. Provider shall also submit documentation to Licensing within seven calendar days after the thirtieth day verifying that the individual's name has been removed from the Secretary of State's website if owned by a corporation.

4. This check shall be obtained prior to the addition of a board member who meets the definition of an owner, an individual being present on the premises, or an individual having access to residents and/or infants of residents.

5. No person shall own, operate, or participate in the management or governance of a maternity home until such person has submitted his or her fingerprints through the FBI and it has been determined that such person has not been convicted of, or pled guilty or *nolo contendere* to any crime listed in R.S. 15:587.1(C).

6. Any owner or operator who is convicted of, or pled guilty or *nolo contendere* to any crime listed in R.S. 15:587.1(C) shall not continue in the management or governance after such conviction, guilty plea, or plea of *nolo contendere*.

7. The following is a listing of individuals by organizational type who are required to submit documentation to Licensing of a satisfactory fingerprint-based criminal background clearance through the FBI:

a. *Individual Ownership*—individual and spouse listed on the licensing application submitted and who have access to the residents and/or infants of residents in care of the provider and/or residents and/or infants of residents who receive services from the provider and/or who are present at any time on the facility premises when residents and/or infants of residents are present;

b. *Partnership*—all limited or general partners and managers who are listed on the licensing application submitted and who have access to the residents and/or infants of residents in care of the provider and/or residents and/or infants of residents who receive services from the provider, and/or who are present at any time on the facility premises when residents and/or infants of residents are present;

c. *Church Owned, University Owned* or *Governmental Entity*—any clergy and/or board member who is listed on the licensing application submitted and who has access to the residents and/or infants of residents in care of the provider, and/or residents and/or infants of residents who receive services from the provider, and/or who is present at any time on the facility premises when residents and/or infants of residents are present; or

d. *Corporation* (includes limited liability companies)—individual(s) who is registered as an officer of the board with the Louisiana Secretary of State and/or listed on the licensing application submitted and who has access to the residents and/or infants of residents in care of the provider, and/or residents and/or infants of residents who receive services from the provider, and/or who is present at any time on the facility premises when residents and/or infants of residents are present.

8. When an individual is listed on the licensing application or the Secretary of State's website as an officer and does not have access to residents and/or infants of residents in care or who receive services from the provider and/or is not present at any time on the facility premises when residents and/or infants of residents are present, a DCFS approved attestation form signed and dated by the individual is acceptable in lieu of a satisfactory fingerprint-based CBC through the FBI. The attestation form shall be accepted for a period of one year from the date individual signed the attestation form.

9. Criminal background clearances are not transferable between owners.

B. Criminal Background Checks—Prospective owners effective June 1, 2020

1. Effective June 1, 2020, and in accordance with public law 115-123 and R.S. 15:587.1, documentation of a satisfactory fingerprint-based criminal background check through the Federal Bureau of Investigation (FBI) for all owners/operators is required prior to the date the initial license is issued. The satisfactory criminal record check shall be dated prior to the issuance of the license, but no earlier than 45 days prior to the initial application being received by

the Licensing Section. Documentation of a satisfactory fingerprint-based FBI check shall be available for review.

2. This check shall be obtained prior to the license being issued, the addition of a board member who meets the definition of an owner, an individual being present on the premises, or an individual having access to residents and/or infants of residents.

3. No person shall own, operate, or participate in the management or governance of a maternity home until such person has submitted his or her fingerprints through the FBI and it has been determined that such person has not been convicted of, or pled guilty or *nolo contendere* to any crime listed in R.S. 15:587.1(C).

4. Any owner or operator who is convicted of, or pled guilty or *nolo contendere* to any crime listed in R.S. 15:587.1(C) shall not continue in the management or governance after such conviction, guilty plea, or plea of *nolo contendere*.

5. The following is a listing of individuals by organizational type who are required to submit documentation to Licensing of a satisfactory fingerprint-based criminal background clearance through the FBI:

a. *Individual Ownership*—individual and spouse listed on the licensing application submitted and who have access to the residents and/or infants of residents in care of the provider and/or residents and/or infants of residents who receive services from the provider and/or who are present at any time on the facility premises when residents and/or infants of residents are present;

b. *Partnership*—all limited or general partners and managers who are listed on the licensing application submitted and who have access to the residents and/or infants of residents in care of the provider and/or residents and/or infants of residents who receive services from the provider, and/or who are present at any time on the facility premises when residents and/or infants of residents are present;

c. *Church Owned, University Owned* or *Governmental Entity*—any clergy and/or board member who is listed on the licensing application submitted and who has access to the residents and/or infants of residents in care of the provider, and/or residents and/or infants of residents who receive services from the provider, and/or who is present at any time on the facility premises when residents and/or infants of residents are present; or

d. *Corporation* (includes limited liability companies)—individual(s) who is registered as an officer of the board with the Louisiana Secretary of State and/or listed on the licensing application submitted and who has access to the residents and/or infants of residents in care of the provider, and/or residents and/or infants of residents who receive services from the provider, and/or who is present at any time on the facility premises when residents and/or infants of residents are present.

6. When an individual is listed on the licensing application or the Secretary of State's website as an officer and does not have access to residents and/or infants of residents in care or who receive services from the provider and/or is not present at any time on the facility premises when residents and/or infants of residents are present, a DCFS approved attestation form signed and dated by the individual is acceptable in lieu of a satisfactory fingerprint-based CBC through the FBI. The attestation form shall be accepted for a period of one year from the date individual signed attestation form.

7. CBCs/attestation forms shall be dated prior to the initial license being issued, but no earlier than 45 days prior to the initial application being received by the Licensing Section.

8. Criminal background clearances are not transferable between owners.

C. Criminal Background Checks for Current Staff and Volunteers as of June 1, 2020

1. Effective June 1, 2020, and in accordance with public law 115-123 and R.S. 15:587.1, provider shall submit a request for a fingerprint-based criminal background check through the Federal Bureau of Investigation (FBI) for all currently employed staff (paid and non-paid staff and volunteers). The request shall be submitted to the FBI no later than June 12, 2020. Documentation of submission shall be available for review and submitted upon request of the Licensing section.

2. Upon notification that the staff person has been convicted of a crime listed in R.S.15:587.1(C), the individual shall no longer be eligible for employment or able to provide services for the provider. The provider shall submit a signed, dated statement to the Licensing Section within 24 hours or no later than the next business day after notification has been made indicating that the staff has been terminated or individual will no longer be providing services. If this statement is not received by the Licensing Section within the aforementioned timeframe, the license shall be immediately revoked.

3. Upon notification that additional information is required in order to make a decision, the provider has seven calendar days to submit the requested information to the requesting agency. Documentation of the date the requesting agency requested additional information shall be available for review. If the information is not submitted as requested within seven calendar days, the individual is ineligible to return to work or provide services. The provider shall submit a signed, dated statement to the Licensing Section within 24 hours or no later than the next business day after the seventh day indicating that the individual has been suspended or no longer providing services. However, if the information is not submitted within 30 calendar days, the individual shall be terminated or no longer eligible to provide services for the provider. If the information is not submitted before the thirty-first calendar day following the request for information, the individual shall be terminated or no longer eligible to provide services for the provider. The provide

shall submit a signed, dated statement to the Licensing Section within 24 hours or no later than the next business day after the thirtieth day indicating that the individual has been relieved of his position with the effective date of the termination/removal. If the statement is not received within the aforementioned timeframe, the license shall be immediately revoked.

4. No person who has been convicted of, or pled guilty or *nolo contendere* to any offense included in R.S. 15:587.1, shall be present in any capacity in the facility.

5. CBC shall be dated no earlier than 45 days of the individual being present in the facility or having access to the residents and/or infants of residents.

6. Criminal background clearances are not transferable between owners.

D. Criminal Background Checks for Prospective Staff and Volunteers effective June 1, 2020

1. Effective June 1, 2020, and in accordance with public law 115-123 and R.S. 15:587.1, documentation of a satisfactory criminal background check through the Federal Bureau of Investigation (FBI) is required prior to the individual (paid and non-paid staff and volunteers) being present in the facility or having access to residents and/or infants of residents. No person who has been convicted of, or pled guilty or *nolo contendere* to any offense included in R.S. 15:587.1 shall be hired by or present in any capacity in the facility.

2. Criminal background checks (CBC) through the Federal Bureau of Investigation (FBI) shall be dated no earlier than 45 days of the individual being present in the facility or having access to the residents and/or infants of residents.

3. No person who has been convicted of, or pled guilty or *nolo contendere* to any offense included in R.S. 15:587.1, shall be hired by or present in any capacity in the facility.

4. No person who is convicted of or has pled *nolo contendere* to any crime listed in R.S. 15:587.1(C) shall continue employment or to provide services after such conviction or *nolo contendere* plea.

5. Criminal background clearances are not transferable between owners.

E. Criminal Background Checks for Current Contractors as of June 1, 2020

1. Effective June 1, 2020, and in accordance with public law 115-123 and R.S. 15:587.1, provider shall submit a request for a criminal background check through the Federal Bureau of Investigation (FBI) for all current contractors. The request shall be submitted to the FBI no later than June 12, 2020. Documentation of submission shall be available for review and submitted upon request of the Licensing Section.

2. Upon notification that the contractor has been convicted of a crime listed in R.S.15:587.1(C), the individual shall no longer be eligible to provide services for the provider. The provider shall submit a signed, dated statement to Licensing within 24 hours or no later than the next business day after notification has been made indicating that the contract has been terminated and the individual is no longer allowed access to the residents and/or infants of residents. If this statement is not received by Licensing within the aforementioned timeframe, the license shall be immediately revoked.

3. Upon notification that additional information is required in order to make a decision, the provider has seven calendar days to submit the requested information to the requesting agency. Documentation of the date the requesting agency requested additional information shall be available for review. If the information is not submitted as requested within seven calendar days, the individual is ineligible to provide services. The provider shall submit a signed, dated statement to the Licensing Section within 24 hours or no later than the next business day after the seventh day indicating that the individual has been suspended or no longer providing services. However, if the information is not submitted within 30 calendar days, the individual shall be terminated or no longer eligible to provide services for the provider. If the information is not submitted before the thirty-first calendar day following the request for information, the individual shall be terminated or no longer eligible to provide services for the provider. The provide shall submit a signed, dated statement to Licensing within 24 hours or no later than the next business day after the thirtieth day indicating that the individual has been relieved of his position with the effective date of the termination/removal. If the statement is not received within the aforementioned timeframe, the license shall be immediately revoked.

4. A person shall not be deemed a contractor if he/she is a staff person of the facility.

5. No person who has been convicted of, or pled guilty or *nolo contendere* to any offense included in R.S. 15:587.1, shall be present in any capacity in the facility.

6. Criminal background checks are not transferable between owners.

F. Criminal Background Checks for Prospective Contractors effective June 1, 2020

1. Contractors hired to perform work which involves contact with residents and/or infants of residents, shall be required to have documentation of a satisfactory fingerprint-based criminal background check through the Federal Bureau of Investigation (FBI) as required by R.S. 15:587.1 and R.S. 46:51.2. This check shall be obtained prior to the individual being present in the facility or having access to the residents and/or infants of residents.

2. No person who has been convicted of, or pled guilty or *nolo contendere* to any offense included in R.S. 15:587.1, shall be hired by or present in any capacity in the facility.

3. This check shall be obtained prior to the individual being present in the facility or having access to the residents and/or infants of residents.

4. Criminal background checks (CBC) shall be dated no earlier than 45 days of the individual being present in the facility or having access to the residents and/or infants of residents.

5. A person shall not be deemed a contractor if he/she is a staff person of the facility.

6. Criminal background checks are not transferable between owners.

G. Criminal Background Checks for Louisiana Department of Education (LDE) Staff effective June 1, 2020

1. Effective June 1, 2020, provider shall provide documentation that a fingerprint-based satisfactory criminal background check (CBC) through the Federal Bureau of Investigation (FBI) as required by R.S. 15:587.1 and R.S. 17:15 for all Louisiana Department of Education staff or local school district staff that interact with residents and/or infants of residents prior to the individual providing services to residents and/or infants of residents has been conducted. This check shall be obtained prior to the individual being present in the facility or providing services for the facility. No person who has been convicted of, or pled guilty or *nolo contendere* to any offense included in R.S. 15:587.1, shall be present in any capacity in any licensed facility.

a. For the first school year that a LDE staff person or local school district staff person provides services to a resident, that LDE staff person or local school district staff person shall provide documentation of a fingerprint-based satisfactory criminal record check through the Federal Bureau of Investigation (FBI) as required by R.S 17:15 and R.S. 15:587.1 or shall provide the original, completed, signed, notarized, DCFS-approved affidavit dated June 1, 2020, or after to the provider prior to being present and working with a resident at the facility. A photocopy of the original affidavit shall be kept on file at the facility. This affidavit will be acceptable for the entire school year noted in the text of the affidavit and expires on May thirty-first of the current school year. For all subsequent school years following the first year, the LDE staff or local school district staff person shall present a new affidavit or an original, completed, and signed letter from the superintendent of the school district or designee or superintendent of LDE or designee noting that the individual continues to meet certain specific requirements. The provider will need to view the original letter presented by the LDE staff or local school district staff person and keep a photocopy of the original letter on file at the facility. This letter will be acceptable for the entire school year noted in the text of the letter and expires on May thirty-first of the current school year. The letter is acceptable only if all the following conditions are met:

i. the LDE staff person or local school district staff person has remained employed with the same school district as noted in the affidavit the provider has on file;

ii. the provider has maintained a copy of the affidavit on file; and

iii. the letter is presented on school district letterhead or LDE letterhead and signed by the superintendent of the school district or designee or superintendent of LDE or designee; and

iv. the letter notes the following:

(a). individual is an employee and/or representative of the school district for the (ex. 2020-2021) school year and is not employed or contracted on an emergency basis nor pursuant to written approval of any district judge or district attorney under to La. R.S. 17:15(A). As a prerequisite of employment and/or representative status, he/she underwent a criminal background check as required by La. R.S. 17:15 and La. R.S. 15:587.1.

(b). the superintendent or designee certifies that, according to that criminal background check, he/she has not been convicted of, or pled guilty or *nolo contendere* to, any of the criminal offenses set forth in La. R.S. 17:15 and/or La. R.S.15:587.1(C).

(c). the superintendent or designee certifies that he/she will notify the Director of DCFS Licensing Section in writing if superintendent/designee becomes aware that the individual is convicted of an offense enumerated in La. R.S. 17:15 and/or 15:587.1(C) during the school year which nullifies the affidavit and/or letter.

2. No person who has been convicted of, or pled guilty or *nolo contendere* to any offense included in R.S. 15:587.1(C), shall be hired by or present in any capacity in the facility.

3. Criminal background clearances are not transferable between owners.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1401 et seq.

HISTORICAL NOTE: Promulgated by the Department of Children and Family Services, Division of Programs, Licensing Section, LR 38:970 (April 2012), amended by the Department of Children and Family Services, Licensing Section, LR 45:516 (April 2019), effective May 1, 2019, LR 46:668 (May 2020), effective June 1, 2020.

§6711. Ethical Practices

NOTE: This Section has been moved from LAC 67:I.1711.

A. The following code of professional ethics shall be observed:

1. respect for the confidential nature of information provided by expectant mother and other agencies. Divulging identifying information about the expectant mother or her baby to anyone other than professional social casework staff and judicial agencies is prohibited. Information may be provided to other social casework staff and judicial agencies only when necessary for planning for the mother or the baby's welfare. Information about the mother may be given to other professional persons such as physicians or attorneys with the mother's written permission. Honesty in all dealing

with expectant mothers, with other organizations and the public, including the keeping of agreements made with each;

2. the fulfilling of any responsibility accepted by the maternity home from courts of law;

3. utilizing funds for the stated purposes of the maternity home;

4. honoring contracts and prompt payment of bills.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:477 and R.S. 46:1401-1424.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, Division of Licensing and Certification, LR 13:246 (April 1987), repromulgated by the Department of Social Services, Office of the Secretary, Bureau of Residential Licensing, LR 33:2696 (December 2007), repromulgated by the Department of Social Services, Office of Community Services, LR 35:1572 (August 2009), amended LR 36:801 (April 2010).

§6712. State Central Registry

A. State Central Registry Checks for Owners

1. Prior to May 1, 2019, in accordance with R.S. 46:1414.1, all owners and operators affiliated with facility were required to have on file a state central registry clearance form from child welfare stating that the owners/operators were not listed on the state central registry. No person recorded on any state's child abuse and neglect registry with a justified (valid) finding of abuse or neglect of a child shall be eligible to own, operate, or participate in the governance of a maternity home.

a. When an individual is listed on the licensing application or the Secretary of State's website as an officer and does not have access to residents and/or infants of residents in care or residents and/or infants of residents who receive services from the provider and/or is not present at any time on the facility premises when residents and/or infants of residents are present, a DCFS approved attestation form signed and dated by the individual is acceptable in lieu of a State Central Registry clearance. The attestation form shall be accepted for a period of one year from the date individual signed attestation form.

2. Prior to May 1, 2019, all owners and operators affiliated with a facility were required to have on file a clearance from any other state's child abuse and neglect registry in which the owner/operator resided within the proceeding five years. No person recorded on any state's child abuse and neglect registry with a justified (valid) finding of abuse and/or neglect of a child was eligible to own, operate, or participate in the governance of the maternity home.

3. In accordance with R.S. 46:1414.1, an inquiry of the State Central Registry for all owners and operators shall be conducted prior to a license being issued or if currently licensed, prior to the addition of a new board member who meets the definition of an owner. The Louisiana State Central Registry clearance form shall be dated no earlier than 45 days prior to the application being received by the Licensing Section or the addition of a new board member who meets the definition of an owner. For states other than Louisiana, clearance forms shall be dated no earlier than 120 days prior to application being received by the licensing section or the addition of a new board member who meets the definition of an owner; however, individuals who continue to reside outside of the state of Louisiana but own/operate a maternity home in the state of Louisiana, their clearances shall be dated prior to the issuance of the initial license, but no earlier than 45 days prior to the initial application being received by the Licensing Section. No person who is recorded on any state's child abuse and neglect registry with a valid justified (valid) finding of abuse or neglect of a child shall be eligible to own, operate, or participate in the governance of the maternity home.

a. When an individual is listed on the licensing application or the Secretary of State's website as an officer and does not have access to residents and/or infants of residents in care or residents and/or infants of residents who receive services from the provider and/or is not present at any time on the facility premises when residents and/or infants of residents are present, a DCFS approved attestation form signed and dated by the individual is acceptable in lieu of a State Central Registry clearance. The attestation form shall be accepted for a period of one year from the date individual signed the attestation form.

4. If an owner/operator resided in another state within the proceeding five years, provider shall request a check and obtain clearance information from that state's child abuse and neglect registry prior to the license being issued or if currently licensed, prior to the addition of a new board member who meets the definition of an owner. No person who is recorded on any state's child abuse and neglect registry with a justified (valid) finding of abuse and/or neglect of a child shall be eligible to own, operate, or participate in the governance of a maternity home.

a. If the provider requests an out-of-state state central registry check and that state advises that they are unable to process the request due to statutory limitations, documentation of such shall be kept on file.

b. The out of state clearance forms shall be dated no earlier than 120 days prior to the application being received by the Licensing Section; however, individuals who continue to reside outside of the state of Louisiana but own/operate a maternity home in the state of Louisiana, their clearances shall be dated prior to the issuance of the initial license, but no earlier than 45 days prior to the initial application being received by the Licensing Section.

5. Upon notification from child welfare that an owner/operator(s) is not listed on the state central registry, the provider shall maintain on file the child welfare notification that the owner's name does not appear on the registry with a justified (valid) finding of abuse and/or neglect.

6. A request for a state central registry clearance shall be submitted by provider for all owners/operators to child welfare every five years prior to the date noted on the state central registry clearance notification and at any time upon

the request of DCFS if reasonable suspicion exists that an individual may be listed on the state central registry.

7. If the owner/operator receives a justified (valid) finding after receiving notification from child welfare that he was not listed on the state central registry and the owner/operator advises the provider prior to his/her appeal rights being exhausted, licensing shall be notified within 24 hours or no later than the next business day, whichever is shorter.

a. The owner/operator shall be directly supervised by a paid staff (employee) of the maternity home and at any and all times when he/she is in the presence of a child/youth. The employee responsible for supervising the individual must not be a suspected perpetrator with a justified (valid) determination of abuse and/or neglect.

b. Under no circumstances shall the owner/operator, with the justified (valid) finding of abuse and/or neglect, be left alone and unsupervised with a child/youth pending the official determination from child welfare that the individual is or is not listed on the state central registry.

8. Upon notification to the provider from child welfare that the owner/operator is listed on the state central registry, the owner/operator shall no longer be eligible to own, operate, or participate in the governance of the maternity home. The owner/operator may voluntarily withdraw the application for licensure or if he/she chooses not to withdraw the application, the application shall be immediately denied. If the individual with the justified (valid) finding of abuse and/or neglect is a member of the maternity home board, the provider shall submit a signed, dated statement to licensing within 24 hours or no later than the next business day indicating that the board member has resigned his position on the board or has been relieved of his position on the board with the effective date of the resignation/removal. Within seven calendar days, provider shall also submit to licensing documentation verifying that the individual's name has been removed from the Secretary of State's website if the CPA is owned/operated by a corporation. After receipt of the statement, the application for licensure may continue to be processed.

9. Any information received or knowledge acquired by a provider that a current owner is a perpetrator of abuse and/or neglect with a justified (valid) determination of abuse or neglect prior to receipt of official notification from child welfare, shall be immediately reported verbally to licensing management staff and followed up in writing no later than the close of business on the next business day. Prior to receipt of the official notification and immediately upon the knowledge that a justified (valid) finding has been issued by DCFS, the individual shall be directly supervised by a paid staff (employee) of the maternity home, at any and all times when he/she is present on the premises and/or is in the presence of a child/youth. The employee responsible for supervising the individual must not be a suspected perpetrator with a justified (valid) determination of abuse and/or neglect. Under no circumstances shall the individual with the valid (justified) finding of abuse and/or neglect be left alone and unsupervised with a child/youth pending the official determination from child welfare that the individual is or is not listed on the state central registry.

10. State central registry clearances are not transferable from one owner to another.

B. State Central Registry Checks for Staff and Volunteers

1. Prior to employment, staff record shall contain a state central registry clearance form indicating that the staff (paid, non-paid, and volunteers) person is not listed on the state central registry with a justified finding of child abuse and/or neglect.

a. Prior to May 1, 2019, all staff (paid, non-paid, and volunteers) were required to have on file a state central registry clearance form from child welfare noting that the staff (paid, non-paid, and volunteers) person is not listed on the state central registry in accordance with R.S. 46:1414.1. No person who is recorded on any state's child abuse and neglect registry with a valid (justified) finding of abuse and/or neglect shall be eligible for employment in a licensed maternity home.

b. Prior to May 1, 2019, all staff (paid, non-paid, and volunteers) were required to have on file a clearance from any other state's child abuse and neglect registry in which the staff (paid, non-paid, and volunteers) person resided within the proceeding five years. No person who is recorded on any state's child abuse and neglect registry with a valid (justified) finding of abuse and/or neglect shall be eligible for employment in a licensed maternity home.

c. In accordance with R.S. 46:1414.1, an inquiry of the State Central Registry for all staff (paid, non-paid and volunteers) shall be conducted prior to employment being offered to a potential hire. Staff (paid, non-paid, and volunteers) persons who have resided in another state within the proceeding five years, provider shall request a check and obtain State Central Registry clearance from that state's child abuse and neglect registry. Louisiana State Central Registry clearance forms shall be dated no earlier than 45 days prior to the staff (paid, non-paid, and volunteers) being present on the premises or having access to residents and/or infants of residents. Other states' State Central Registry clearance forms shall be dated no earlier than 120 days prior to the staff (paid, non-paid, and volunteers) being present on the premises or having access to residents and/or infants of residents ; however, individuals who continue to reside outside of the state of Louisiana but volunteer with or work for the maternity home or with residents and/or infants of residents in the state of Louisiana, their clearances shall be dated prior to hire and/or providing services to residents and/or infants of residents, but no earlier than 45 days of hire or providing services. No person who is recorded on any state's child abuse and neglect registry with a valid (justified) finding of abuse and/or neglect shall be eligible for employment in a licensed maternity home.

i. If the provider requests an out-of-state state central registry check and that state advises that they are

unable to process the request due to statutory limitations, documentation of such shall be kept on file.

d. Upon notification from child welfare that the staff (paid, non-paid, and volunteers) is not listed on the state central registry, the provider shall maintain on file the state central registry clearance form noting that the staff's (paid, non-paid, and volunteers) name does not appear on the registry with a justified (valid) finding of abuse and/or neglect. A request shall be submitted to child welfare every five years for staff (paid, non-paid, and volunteers) prior to the issue date noted on the state central registry clearance form and at any time upon the request of DCFS if reasonable suspicion exists that a staff (paid, non-paid, and volunteers) may be listed on the state central registry.

e. If after the initial state central registry clearance form is received by provider from child welfare noting that the staff (paid, non-paid, and volunteers) is not listed on the state central registry and due to a new valid finding, the staff (paid, non-paid, and volunteers) receives a subsequent notice that he/she is listed on the state central registry (issued after the provider was licensed) and advises the provider of the new information prior to their appeal rights being exhausted, licensing shall be notified within 24 hours or no later than the next business day, whichever is shorter. The staff (paid, non-paid, and volunteers) with the valid (justified) finding of abuse and/or neglect shall be directly supervised by another paid staff (employee) of the maternity home, at any and all times when he/she is present on the premises and/or is in the presence of a child/youth. The employee responsible for supervising the individual shall not be suspected to be a perpetrator with a justified (valid) determination of abuse and/or neglect. Under no circumstances shall the staff (paid, non-paid, and volunteers) with the valid (justified) finding of abuse and/or neglect be left alone and unsupervised with a child/youth pending the official determination from child welfare that the individual is or is not listed on the state central registry.

f. Upon notification to the provider from child welfare that the staff (paid, non-paid, and volunteers) is listed on the state central registry, the staff (paid, non-paid, and volunteers) shall no longer be eligible for employment with the maternity home. The provider shall submit a signed, dated statement to licensing within 24 hours, but no later than the next business day indicating that the staff (paid, non-paid, and volunteers) with the valid (justified) finding of abuse and/or neglect has been terminated. If this statement is not received by licensing within the aforementioned timeframe, the application shall be denied or license shall be immediately revoked.

g. Any information received or knowledge acquired by the provider that a current staff (paid, non-paid and volunteer) is a perpetrator of abuse and/or neglect with a justified (valid) determination of abuse or neglect prior to receipt of official notification from child welfare, shall be immediately reported verbally to licensing management staff and followed up in writing no later than the close of business on the next business day. Prior to receipt of the official notification and immediately upon the knowledge that a justified (valid) finding has been issued by DCFS, the individual shall be directly supervised by a paid staff (employee) of the maternity home at any and all times when he/she is present on the premises and/or is in the presence of a child/youth. The employee responsible for supervising the individual must not be suspected to be a perpetrator with a justified (valid) determination of abuse and/or neglect. Under no circumstances shall the individual with the valid (justified) finding of abuse and/or neglect be left alone and unsupervised with a child/youth pending the official determination from child welfare that the individual is or is not listed on the state central registry.

h. State central registry clearances are not transferable from one owner to another.

C. State Central Registry Checks for Contractors

1. Contractors who provide services to children/youth unaccompanied by paid staff or have access to children/youth unaccompanied by a paid staff shall have on file at the facility a state central registry clearance form which indicates that the contractor is not listed on any State Central registry with a valid finding of child abuse and/or neglect.

a. Prior to May 1, 2019, all contractors providing services to the maternity home were required to have on file a state central registry clearance form from child welfare that the contractor is not listed on the state central registry in accordance with R.S. 46:1414.1. No person who is recorded on any state's child abuse and neglect registry with a valid (justified) finding of abuse and/or neglect shall be eligible for employment or provide services in a licensed maternity home.

b. Prior to May 1, 2019 , all contractors providing services to the maternity home were required to have on file a clearance from any other state's child abuse and neglect registry in which the contractor resided within the proceeding five years. No person who is recorded on any state's child abuse and neglect registry with a valid (justified) finding of abuse and/or neglect shall be eligible for employment or provide services in a licensed maternity home.

c. For individuals who have resided in another state within the proceeding five years, provider shall request a check and obtain clearance information from that state's child abuse and neglect registry prior to providing services or having access to children/youth.

i. If the provider requests an out-of-state state central registry check and that state advises that they are unable to process the request due to statutory limitations, documentation of such shall be kept on file.

d. Louisiana State Central Registry clearance forms shall be dated no earlier than 45 days prior to the individual providing services or having access to residents and/or infants of residents. Other states' State Central Registry clearance information shall be dated no earlier than 120 days prior to the individual providing services or having access to residents and/or infants of residents however, individuals

who continue to reside outside of the state of Louisiana but contract with or provide services for the maternity home or with residents and/or infants of residents in the state of Louisiana, their clearances shall be dated prior to hire and/or providing services to residents and/or infants of residents, but no earlier than 45 days of hire or providing services. No person who is recorded on any state's child abuse and neglect registry with a valid (justified) finding of abuse and/or neglect shall be eligible for employment in a licensed maternity home.

e. Upon notification from child welfare that the individual is not listed on the state central registry, the provider shall maintain on file the state central registry clearance indicating that the individual's name does not appear on the registry with a justified (valid) finding of abuse and/or neglect. No person who is recorded on any state's child abuse and neglect registry with a valid (justified) finding of abuse and/or neglect shall be eligible to provide services in a licensed maternity home.

f. A request shall be submitted to child welfare every five years for contractors prior to the issue date noted on the state central registry clearance form and at any time upon the request of DCFS if reasonable suspicion exists that a staff may be listed on the state central registry.

g. If after the initial state central registry clearance form is received by provider from child welfare noting that the individual is not listed on the state central registry and due to a new valid finding, the contractor receives a subsequent notice that he/she is listed on the state central registry (issued after the provider was licensed) and advises the provider of the new information prior to their appeal rights being exhausted, licensing shall be notified within 24 hours or no later than the next business day, whichever is shorter. The individual with the valid (justified) finding of abuse and/or neglect shall be directly supervised by a paid staff (employee) of the maternity home at any and all times when he/she present on the premises and/or is in the presence of a child/youth. The employee responsible for supervising the individual must not be suspected to be a perpetrator with a justified (valid) determination of abuse and/or neglect. Under no circumstances shall the individual with the valid (justified) finding of abuse and/or neglect be left alone and unsupervised with a child/youth pending the official determination from child welfare that the individual is or is not listed on the state central registry.

h. Upon notification to the provider from child welfare that the contractor is listed on the state central registry, the individual shall no longer be eligible to provide services for the maternity home. The provider shall submit a signed, dated statement to licensing within 24 hours or no later than the next business day indicating that the individual with the valid (justified) finding of abuse and/or neglect has been relieved of his duties with the maternity home with the effective date of termination of services. If this statement is not received by licensing within the aforementioned timeframe, the license shall be immediately revoked.

i. Any information received or knowledge acquired by the provider that a current contractor is a perpetrator of abuse and/or neglect with a justified (valid) determination of abuse or neglect prior to receipt of official notification from child welfare, shall be immediately reported verbally to licensing management staff and followed up in writing no later than the close of business on the next business day. Prior to receipt of the official notification and immediately upon the knowledge that a justified (valid) finding has been issued by DCFS, the individual shall be directly supervised by a paid staff (employee) of the maternity home, at any and all times when he/she is present on the premises and/or is in the presence of a child/youth,. The employee responsible for supervising the individual must not be suspected to be a perpetrator with a justified (valid) determination of abuse and/or neglect. Under no circumstances shall the individual with the valid (justified) finding of abuse and/or neglect be left alone and unsupervised with a child/youth pending the official determination from child welfare that the individual is or is not listed on the state central registry.

j. State central registry clearances are not transferable from one owner to another.

D. Reasonable Suspicion

1. Any information received or knowledge acquired by the provider that a current owner, contractor, volunteer and/or staff, is a perpetrator of abuse and/or neglect after October 1, 2018, with a justified (valid) determination of abuse and/or neglect prior to receipt of official notification from Child Welfare, shall be verbally reported to Licensing management staff immediately and followed up in writing no later than the close of business on the next business day. Prior to receipt of the official notification and immediately upon the knowledge that a justified (valid) finding has been issued by DCFS, the individual shall be directly supervised by a paid staff (employee) of the maternity home, at any and all times when he/she is present on the premises and/or is in the presence of a child/youth. The employee responsible for supervising the individual shall not be suspected to be a perpetrator with a justified (valid) determination of abuse and/or neglect. Under no circumstances shall the individual with the valid (justified) finding of abuse and/or neglect be left alone and unsupervised with a child/youth pending the official determination from Child Welfare that the individual is or is not listed on the state central registry.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1414.1.

HISTORICAL NOTE: Promulgated by the Department of Children and Family Services, Licensing Section, LR 45:516 (April 2019), effective May 1, 2019, LR 46:672 (May 2020), effective June 1, 2020.

§6713. Social Services

NOTE: This Section has been moved from LAC 67:I.1713.

A. A social study shall be completed for every expectant mother accepted for care by the maternity home. The social study shall be completed by a caseworker on the maternity home's staff or by a caseworker of the referring agency. When she is accepted through correspondence or on an

emergency basis, the expectant mother shall be interviewed by the maternity home caseworker within a week after arrival. An immediate interview however, is preferable.

B. Intake

1. The intake study shall include social information establishing that the expectant mother is in need of the services of the maternity home.

2. The following identifying information is essential: name, date of birth, nationality, religion, education, occupation, health history, physical appearance of mother, marital status, and home address.

3. The social worker shall discuss with the expectant mother the following:

a. the regulations of the maternity home and her responsibilities;

b. the services available to her through the maternity home and community;

c. agreement that while she is in the care of the maternity home she may plan either to keep or to release her baby. The narrative record shall clearly show that a full discussion was held with the expectant mother regarding alternatives. The expectant mother should understand that should she not surrender her child to the home, the home will release the child only to the mother or to a licensed agency.

4. The agreement shall be in writing when a charge for care is made.

C. Continuing Casework

1. Following admission, the social worker shall counsel with the expectant mother as often as her individual needs require. The caseworker will begin to establish a relationship in order to gain an understanding of the expectant mother's total situation and the meaning of the pregnancy for the expectant mother.

2. Interviewing shall be focused on the expectant mother's individual problems and on plans for the baby. In general, the treatment plan will be focused on preparing the expectant mother for a return to useful community life and providing her with information regarding the resources available in her local community.

3. The decision to surrender or take her baby should be made by the mother before, or at the time of discharge. Should the expectant mother desire postponement of her decision regarding surrender, the consideration of allowing more time shall be made on an individual basis by the social worker. In any event, adequate discharge plans shall be made.

4. The social worker shall know at the time of discharge what plans the expectant mother has for living arrangements, employment, or school. It is the social worker's responsibility to assist the expectant mother directly or through referral to other agencies when she needs help in these areas.

D. Records

1. A narrative record shall be maintained which incorporates the information required in Subsections A and B of this Section. Copies of correspondence, agreements, and other forms shall be filed in this folder. The confidential nature of these records shall be respected, and these records are for the use of professional casework staff only. Social records shall be accessible only to the appropriate staff and shall be maintained in locked files.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:477 and R.S. 46:1401-1424.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, Division of Licensing and Certification, LR 13:246 (April 1987), repromulgated by the Department of Social Services, Office of the Secretary, Bureau of Residential Licensing, LR 33:2696 (December 2007), repromulgated by the Department of Social Services, Office of Community Services, LR 35:1572 (August 2009), amended LR 36:801 (April 2010).

§6715. Care in the Home

NOTE: This Section has been moved from LAC 67:I.1715.

A. Health Aspects

1. Responsibility for the health supervision of the maternity home shall be placed in a licensed physician or a group of licensed physicians appointed by the governing body. A physician shall approve written procedures governing the following:

a. medications and treatment that may be given without specific orders from a licensed physician or by a physician designated by him;

b. circumstances under which a physician shall be called;

c. action to be taken in case of emergency;

d. a special diet if required; and

e. household tasks that may be required. The physician shall review annually the health practices within the maternity home and certify in writing that they meet the licensing requirements.

2. Unless the maternity home requires, prior to admission, a statement from a physician that the expectant mother is free from communicable diseases, the maternity home shall have an isolation facility available. The expectant mother admitted without the statement from the physician shall be placed in isolation until she has had a complete physical examination to determine her freedom from communicable diseases.

3. The expectant mother shall be placed immediately under medical supervision. She shall have a physical examination within a week after admission to the home and at least monthly prior to confinement and before discharge. Should she leave the home before she is medically discharged, this fact shall be recorded on her medical record.

4. Nourishing food, attractively served, shall be provided. The diet shall be planned in consultation with a

nurse, or if a special diet, the physician in charge. Necessary changes in diet prescribed in individual cases by the physician shall be followed.

5. A complete medical record shall be maintained on each expectant mother when she delivers at the maternity home. The case worker or nurse is responsible for maintaining a record for each expectant mother who delivers in public or private hospitals. This record shall contain dates of visits to the medical facility and a summary of medical consultation. Delivery information on the infant shall be recorded. These records shall be maintained in locked files.

6. When an infant is admitted for care into the home's nursery, all standards for child caring institutions apply.

E. Program

1. Regulations

a. The regulations of the maternity home shall not infringe on the expectant mother's privilege of writing and receiving uncensored mail and visits from her family.

b. The same food shall be served to the staff and expectant mothers when they dine together, except when special diets must be prepared for any of the expectant mothers.

c. A mother who wishes to give personal attention to her baby, such as bathing and feeding, shall be permitted to do so.

d. An expectant mother shall be allowed a choice of duties, insofar as possible.

2. Recreation

a. A recreational program shall be provided which will meet the individual needs of the expectant mothers. This program shall consist of a well-stocked library, magazines, newspapers, games, radio or television, piano, and record players. It is desirable to encourage arts and crafts with proper leadership. There shall be provision for outdoor activities. The yard should provide for privacy and be equipped with comfortable outdoor furniture. Expectant mothers interested in community activities should be encouraged to participate.

3. Education

a. Every effort shall be made to arrange continued education for girls under 16 and for older girls whose schooling has been interrupted. Vocational training when appropriate should be encouraged. Household duties should have an educational value.

4. Religion

a. Expectant mothers shall have the privilege of attending the church of their choice. Religious services should be available in the maternity home to those expectant mothers wishing to attend. An expectant mother wishing consultation with her pastor shall be provided the opportunity.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:477 and R.S. 46:1401-1424

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, Division of Licensing and Certification, LR 13:246 (April 1987), repromulgated by the Department of Social Services, Office of the Secretary, Bureau of Residential Licensing, LR 33:2697 (December 2007), repromulgated by the Department of Social Services, Office of Community Services, LR 35:1573 (August 2009), amended LR 36:801 (April 2010).

§6717. Plant and Equipment

NOTE: This Section has been moved from LAC 67:I.1717.

A. Maintenance

1. The building, grounds, and equipment shall be kept clean and in good repair.

B. Location. Local zoning ordinances should be followed.

C. Allocation of Space

1. The room assigned expectant mothers shall be clean, airy, and inviting. Each expectant mother shall have a separate bed, and there shall be at least 4 feet between beds. Each expectant mother shall have adequate closet and drawer space for personal possessions in the room assigned to her. There shall be toilet and bath facilities available in the ratio of one to six expectant mothers. Any maternity home established or rebuilt shall be designed for a maximum of not more than four girls to a room.

2. A recreation room for the exclusive use of the expectant mothers shall be provided.

3. A room insuring privacy where expectant mothers can visit with their families shall be provided.

4. An isolation room and bath for expectant mothers admitted prior to examination for communicable diseases shall be provided.

5. When facilities for delivery are provided in the maternity home, separate and properly equipped quarters approved by the home's physician shall be provided.

6. When the home has facilities for delivery, a recovery room shall be provided on the same floor as the delivery room unless an elevator is available.

7. Separate, private offices shall be provided for the casework staff when the offices are housed in the maternity home. Facilities for the use of a private telephone should be provided.

8. Living quarters separate from those occupied by the expectant mothers shall be provided for auxiliary staff (nursery attendants, domestic staff, and maintenance staff), if they are required to live in.

D. Safety Aspects

1. All requirements of the local state fire prevention and health authorities shall be met. An annual inspection by each of the authorities shall be requested by a designated

authority of the maternity home and the report shall be submitted to the Division of Licensing and Certification.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:477 and R.S. 46:1401-1424.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, Division of Licensing and Certification, LR 13:246 (April 1987), repromulgated by the Department of Social Services, Office of the Secretary, Bureau of Residential Licensing, LR 33:2697 (December 2007), repromulgated by the Department of Social Services, Office of Community Services, LR 35:1574 (August 2009), amended LR 36:802 (April 2010).

Chapter 69. Child Residential Care, Class B

§6951. Purpose

NOTE: This Section has been moved from LAC 67:I.1951.

A. It is the intent of the legislature to protect the health, safety, and well-being of the children of the state who are in out-of-home care on a regular or consistent basis. Toward that end, it is the purpose of Chapter 14 of Title 46 of the Louisiana Revised Statutes of 1950 to establish statewide minimum standards for the safety and well being of children, to ensure maintenance of these standards, and to regulate conditions in these facilities through a program of licensing. It shall be the policy of the state to ensure protection of all individuals under care in child care facilities and to encourage and assist in the improvement of programs. It is the further intent of the legislature that the freedom of religion of all citizens shall be inviolate.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:477, R.S. 46:1410 et seq.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of the Secretary, Bureau of Licensing, LR 27:1564 (September 2001), repromulgated by the Department of Social Services, Office of the Secretary, Bureau of Residential Licensing, LR 33:2740 (December 2007), repromulgated by the Department of Social Services, Office of Community Services, LR 35:1617 (August 2009).

§6953. Authority

NOTE: This Section has been moved from LAC 67:I.1953.

A. Legislative Provisions. The licensing authority of the Department of Social Services is established by R.S. 46:1401 et seq., and R.S. 46:51 which mandate the licensing of all child care facilities and child placing agencies, including child residential facilities. A Class “B" child residential facility is defined as any place, facility or home operated by any institution, society, agency, corporation, person or persons or any other group to provide full-time care (24-hour residential care) for four or more children under the age of 18 years who are not related to the operators, and whose parents or guardians are not residents of the same facility, with or without transfer of custody, and no state or federal funds received for the care of the children.

1. In accordance with HCR 71 of the 2020 Legislative Session, license renewal fees due from July 1, 2020 through June 30, 2021 are hereby suspended for existing residential homes located in Louisiana as part of Louisiana’s response to and as a way to help businesses reopen and recover from COVID-19.

B. Penalties

1. All child care facilities, including facilities owned or operated by any governmental, profit, nonprofit, private or church agency, shall be licensed.

2. As mandated by R.S. 46:1421, whoever operates any child care facility or child-placing agency as defined in R.S. 46:1403, including any child residential facility, without a valid license issued by the department shall be fined not less than $1,000 for each day of such offense.

C. Inspections

1. According to law, it shall be the duty of the Department of Social Services "through its duly authorized agents, to inspect at regular intervals not to exceed one year, or as deemed necessary by the department, and without previous notice, all child care facilities and child placing agencies subject to the provisions of the Chapter". (R.S. 46:1417).

2. When the department is advised or has reason to believe that any person, agency or organization is operating a child residential facility without a license, the department shall make an investigation to ascertain the facts.

3. When the department is advised or has reason to believe that any person, agency or organization is operating in violation of the Class "B" Child Residential Care Minimum Standards, the department shall complete a complaint investigation. All reports of mistreatment received by the department will be investigated.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:477 and R.S. 46:1401 et seq.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of the Secretary, Bureau of Licensing, LR 27:1565 (September 2001), repromulgated by the Department of Social Services, Office of the Secretary, Bureau of Residential Licensing, LR 33:2740 (December 2007), repromulgated by the Department of Social Services, Office of Community Services, LR 35:1617 (August 2009), amended LR 36:331 (February 2010), amended by the Department of Children and Family Services, Division of Programs, Licensing Section, LR 39:66 (January 2013), amended by the Department of Children and Family Services, Licensing Section, LR 47:230 (February 2021), effective March 1, 2021.

§6955. Procedures

NOTE: This Section has been moved from LAC 67:I.1955.

A. Initial Application

1. New buildings shall be non-institutional in design and appearance and physically harmonious with the neighborhood in which they are located, considering such issues as scale, appearance, density and population. A child residential facility shall not occupy any portion of a building licensed by another agency.

2. Before beginning operation, it is mandatory to obtain a license from the Department of Social Services,

Bureau of Licensing. The following steps should be followed.

a. Prior to purchasing, leasing, etc., carefully check all local zoning and building ordinances for the area in which you are planning to locate. Guidelines from the Office of Public Health, Sanitarian Services; the Office of State Fire Marshal, Code Enforcement and Building Safety; and the city fire department (if applicable) should be obtained.

b. After securing property, obtain an application form issued by:

Department of Social Services
Bureau of Licensing
P.O. Box 3078
Baton Rouge, LA 70821-3078
Phone: (225) 922-0015
Fax: (225) 922-0014

c. After the facility's location has been established, complete and return the application form. It is necessary to contact the following offices prior to building or renovating a facility:

i. Office of Public Health, Sanitarian Services;

ii. Office of State Fire Marshal, Code Enforcement and Building Safety;

iii. office of city fire department (if applicable);

iv. zoning department (if applicable); and

v. city or parish building permit office.

d. Upon receipt of the facility's application by the Bureau of Licensing, a request will be made to the Office of State Fire Marshal, Code Enforcement and Building Safety; office of city fire department (if applicable); Office of Public Health and any known required local agencies to inspect the location as per their standards. It is the applicant's responsibility to obtain these inspections and approvals. A licensing specialist shall visit the facility to conduct a licensing inspection.

e. A license will be issued on an initial application when the following requirements have been met and verification is received by the Bureau of Licensing:

i. approval by the Office of Public Health, Sanitarian Services;

ii. approval by the Office of State Fire Marshal, Code Enforcement and Building Safety;

iii. approval by the city fire department (if applicable);

iv. approval by the city or parish zoning (if applicable);

v. approval by the city or parish building permit (if applicable);

vi. a completed licensure inspection verifying compliance with these standards;

vii. full license fee paid; and

viii. any owner/owners of a residential facility shall provide documentation of a satisfactory criminal record check, as required through the FBI as noted in §6966.A and/or 6966.B, as applicable and required by R.S. 46:51.2 and 15:587.1.

3. When a facility changes location, it is considered a new operation and a new application and fee for licensure shall be submitted. All items listed in §7955.A.2.e shall be in compliance for the new location.

4. When a facility changes ownership, a new application and fee shall be submitted. All approvals listed in §7955.A.2.e shall be current. Documentation is required from the previous owner assuring change of ownership; e.g., letter from previous owner, copy of bill of sale or a lease agreement.

5. All new construction or renovation of a facility requires approval from agencies listed in §7955A.2.c and the Bureau of Licensing.

6. The department is authorized to determine the period during which the license shall be effective. A license is valid for the period for which it is issued unless it is revoked for the facility's failure to maintain compliance with minimum standards.

7. A license is not transferable to another person or location.

8. If an administrator or member of his immediate family has had a previous license revoked, refused or denied, upon reapplication, the applicant shall provide written evidence that the reason for such revocation, refusal or denial no longer exists. A licensing survey will then be conducted to verify that the reasons for revocation, refusal or denial have been corrected and the administrator/facility is in substantial compliance with all minimum standards.

B. Fees

1. An initial application fee of $25 shall be submitted with all initial license applications. This fee will be applied toward the license fee when the facility is licensed. This fee is to be paid by all initial and change of location providers. The full licensure fee shall be paid on all changes of ownership. All fees shall be paid by certified check or money order only and are nonrefundable.

2. License fees are required prior to issuance or renewal of a license. However, Class "B" child care facilities or agencies owned or operated by a church or religious organization are exempt from license fees. Fee schedules (based on licensed capacity) are listed below:

a. 4 to 6 children—$400;

b. 7 to 15 children—$500; and

c. 16 or more children—$600.

3. Other licensure fees include:

a. replacement fee of $25 for replacing a license when changes are requested, i.e., change in capacity, name change, age range, etc. (There is no replacement charge

when the request coincides with the regular renewal of a license.); and

b. processing fee of $5 for issuing a duplicate license with no changes.

C. Renewal of the License

1. A license shall be renewed on an annual basis. The month of issue of the initial license becomes the anniversary month for all renewals. A license shall expire on the last day of the anniversary month unless prior to that time the provider has made timely application for renewal as provided in Subparagraph C.2 below.

2. The provider shall submit, at least 60 days prior to its license expiration date, a completed renewal application form and applicable fee. Failure to submit a completed renewal form, applicable fee, and any of the documentation listed below within the time frame set forth herein shall cause the license to expire on its anniversary date. Once a license has expired, a provider may submit an application for an initial license in the manner prescribed in these regulations. The following documentation shall be submitted with the renewal application form:

a. Office of Fire Marshal approval for occupancy;

b. Office of Public Health, Sanitarian Services approval;

c. city fire department approval, if applicable;

d. copy of proof of current general liability and property insurance for facility;

e. copy of proof of insurance for vehicle(s); and

f. copy of a satisfactory fingerprint-based criminal record check through the FBI as noted in §6966.A and/or 6966.B, as applicable and required by R.S. 46:51.2 and 15:587.1 for any owner/owners.

3. Prior to renewing the CRF license, an on-site survey shall be conducted to assure compliance with all licensing laws and standards. If the CRF is found to be in compliance with the licensing laws and standards, and any other required statutes, laws, ordinances, or regulations, the license shall be renewed for a 12-month period.

4. In the event the annual licensing survey finds the CRF is non-compliant with any licensing laws or standards, or any other required statutes, ordinances or regulations but the department, in its sole discretion, determines that the noncompliance does not present a threat to the health, safety, or welfare of the participants, the provider shall be required to submit a corrective action plan to the department for approval. The department shall specify the timeline for submitting the corrective action plan based on such non-compliance or deficiencies cited but no later than 10 days from the date of notification. The corrective action plan shall include a description of how the deficiency shall be corrected and the date by which correction(s) shall be completed. Failure to submit an approved corrective action plan timely, or submission of a corrective action plan deemed by the department to be insufficient to adequately address the deficiencies in a timely and effective manner, shall be grounds for non-renewal.

5. If it is determined that such noncompliance or deficiencies have not been corrected prior to the expiration of the license, the department at its sole discretion, may issue an extension of the license for a period not to exceed 60 days.

6. When it is determined by the department that such noncompliance or deficiencies have been corrected, a license may be issued for a period not to exceed 12 months.

7. If it is determined that all areas of noncompliance or deficiencies have not been corrected prior to the expiration date of the extension, the department may revoke the license.

D. Denial, Revocation, or Non-Renewal of License

1. An application for a license may be denied for any of the following reasons:

a. failure to meet any of the minimum standards for licensure; or

b. conviction of a felony by any of these persons, as shown by a certified copy of the record of the court of conviction:

i. the applicant;

ii. any members or officers if the applicant is a firm or corporation; or

iii. any staff providing care, supervision, or treatment to a resident of the facility.

2. A license may be revoked or renewal denied for any of the following reasons:

a. cruelty or indifference to the welfare of the children in care;

b. violation of any provision of the minimum standards, rules, regulations, or orders of the Department of Social Services;

c. disapproval from any agency whose approval is required for licensure;

d. nonpayment of licensure fee or failure to submit a licensure application;

e. any validated instance of child abuse, corporal punishment, physical punishment, or cruel, severe or unusual punishment may result in revocation, denial or nonrenewal of the license if the owner is responsible or if the staff member who is responsible remains in the employment of the licensee;

f. the facility is closed with no plans for reopening and no means of verifying compliance with minimum standards for licensure;

g. any act of fraud such as falsifying or altering documents required for licensure;

h. any validated instance of abuse and/or neglect as noted by inclusion on the state central registry if the owner's name appears on the registry, or if the staff member's name appears on the registry and remains in the employment of the licensee;

i. knowingly permit an individual with a justified (valid) finding of child abuse and/or neglect to be on the premises without being directly supervised by another paid employee of the facility, who has not disclosed that their name appears with a justified (valid) finding prior to receipt of the official notification from Child Welfare that the individual is listed on the state central registry;

j. have a criminal background, as evidenced by the employment or ownership or continued employment or ownership of or by any individual (paid or unpaid staff) who has been convicted of, or pled guilty or nolo contendere to, any offense included in R.S. 15:587.1, or to any offense involving a juvenile victim;

k. own a child residential business and have been convicted of or have pled guilty or nolo contender to any crime in which an act of fraud or intent to defraud is an element of the offense;

l. have knowledge that a convicted sex offender is on the premises of the child care facility and fail to notify law enforcement and licensing management staff immediately upon receipt of such knowledge;

m. have knowledge that a convicted sex offender is physically present within 1,000 feet of the child care facility and fail to notify law enforcement immediately upon receipt of such knowledge; or

n. permit an individual to be on the premises or to have access to children/youth when listed on the state central registry.

E. Appeal Procedure

1. If a license is denied or revoked because a facility does not meet the minimum requirements for licensure, the Department of Social Services shall notify the licensee or applicant in writing of the denial or revocation, of the reasons for the denial or revocation, and of the right to appeal the agency action.

2. The administrator or owner may appeal this decision by submitting a written request for a fair hearing, together with the reasons he/she believes the decision to be incorrect, to the Department of Social Services Appeals Bureau, P.O. Box 2994, Baton Rouge, LA 70821. The written request must be submitted within 15 days of receipt of notice of the department's notice, in the case of a revocation or non-renewal, or within 30 days of receipt of the notice of denial of a new application for an initial license.

3. A fair hearing shall be conducted by an administrative law judge within 30 days of filing the request for hearing.

4. Following the hearing, the administrative law judge shall render a decision within 90 days and shall notify the appellant in writing of the decision, either affirming or reversing the department's original action. If the department's action is upheld, the revocation or denial shall be effective immediately.

5. If a facility continues to operate without a license following a decision upholding revocation the department may file suit in the district court in the parish in which the facility is located seeking injunctive relief and statutory fines of not less than $75 per day nor more than $250 per day for each day the facility has operated without a license.

F. Posting of Notices of Revocation

1. The notice of revocation of the license shall be prominently posted.

a. The Department of Social Services shall prominently post a notice of revocation action at each public entrance of the child residential care facility within one business day of such action. This notice must remain visible to the general public, other placing agencies, parents, guardians, and other interested parties of children who attend the child care facility.

b. It shall be a violation of these rules for a provider to permit the obliteration or removal of a notice of revocation that has been posted by the department. The provider shall ensure that the notice continues to be visible to the general public, other placing agencies, parents, guardians, and other interested parties throughout the pendency of any appeals of the revocation.

c. The provider shall notify the department's child residential licensing in writing immediately if the notice is removed or obliterated.

d. Failure to maintain the posted notice of revocation required under these rules shall be grounds for denial, revocation or non-renewal of any future license.

G. Disqualification from Application

1. Definitions, as used in Section 6955.G:

Affiliate—

i. with respect to a partnership, each partner thereof;

ii. with respect to a corporation, each officer, director and stockholder thereof;

iii. with respect to a natural person:

(a). that person and any individual related by blood, marriage, or adoption within the third degree of kinship to that person;

(b). any partnership, together with any or all its partners, in which that person is a partner; and

(c). any corporation in which that person an officer, director or stockholder, or holds, directly or indirectly, a controlling interest;

iv. with respect to any of the above, any mandatory, agent, or representative or any other person, natural or juridical acting at the direction of or on behalf of the licensee or applicant; or

v. director of any such child residential care home.

Disqualification Period—the prescriptive period during which the department shall not accept an application from a provider. Any unlicensed operation during the disqualification period shall interrupt running of prescription until the department has verified that the unlicensed operation has ceased.

Effective Date—of a revocation, denial, or non-renewal of a license shall be the last day for applying to appeal the action, if the action is not appealed.

License—

i. any license issued by the department to operate any child care facility or child-placing agency as defined in R.S. 46:1403; or

ii. any license issued by the Department of Health and Hospitals to operate any facility providing services under Title XIX or XX of the Social Security Act; or

iii. any license issued by the Department of Health and Hospitals (or formerly issued by the Department of Social Services) to operate any adult residential care facility.

Provider—all owners or operators of a facility, including the director of such facility. If the owner is a corporate entity, the owners are the officers, directors, and shareholders of the facility.

Unlicensed Operation—operation of any child care facility or child-placing agency, adult residential care facility, or transitional youth residence, at any location, without a valid, current license issued by the department.

2. Disqualification of Facility and Provider

a. If a facility's license is revoked or not renewed due to failure to comply with state statutes and licensing rules, the department shall not accept a subsequent application from the provider for that facility or any new facility for a minimum period of two years after the effective date of revocation or non-renewal or a minimum period of two years after all appeal rights have been exhausted, whichever is later (the disqualification period). Any pending application by the same provider shall be treated as an application for a new facility for purposes of this Section and shall be denied and subject to the disqualification period. Any subsequent application for a license shall be reviewed by the secretary or their designee prior to a decision being made to grant a license. The department reserves the right to determine, at its sole discretion, whether to issue any subsequent license.

b. Any voluntary surrender of a license by a facility facing the possibility of adverse action against its license (revocation or non-renewal) shall be deemed to be a revocation for purposes of this rule, and shall trigger the same disqualification period as if the license had actually been revoked.

c. In addition, if the applicant has had a substantial history of non-compliance, including but not limited to revocation of a previous license, operation without a license, or denial of one or more previous applications for licensure, the department may refuse to accept a subsequent application from that applicant for a minimum period of two years after the effective date of denial.

d. With respect to an application in connection with the revoked, denied, or not renewed facility, the disqualification period provided in this Section shall include any affiliate of the provider.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:477, R.S. 46:1410 et seq., R.S.46:1401-1424 and R.S. 46:1414.1.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of the Secretary, Bureau of Licensing, LR 27:1565 (September 2001), repromulgated by the Department of Social Services, Office of the Secretary, Bureau of Residential Licensing, LR 33:2740 (December 2007), repromulgated by the Department of Social Services, Office of Community Services, LR 35:1617 (August 2009), amended LR 36:331 (February 2010), LR 36:836, 842 (April 2010), repromulgated LR 36:1032 (May 2010), repromulgated LR 36:1277 (June 2010), amended by the Department of Children and Family Services, Child Welfare Section, LR 36:1463 (July 2010), amended by the Department of Children and Family Services, Child Welfare Section and Economic Stability and Self-Sufficiency Section, LR 36:2522 (November 2010), repromulgated LR 36:2838 (December 2010), amended by the Department of Children and family Services, Division of Programs, Licensing Section, LR 38:971 (April 2012), amended by the Department of Children and Family Services, Licensing Section, LR 45:508 (April 2019), effective May 1, 2019, LR 46:687 (May 2020), effective June 1, 2020.

§6957. Definitions

NOTE: This Section has been moved from LAC 67:I.1957.

Abuse and Neglect Reporting—any suspected abuse and/or neglect of a child in a child care center must be reported in accordance with Louisiana Revised Statutes 14:403. This statement shall be visibly posted in the center with the local child protection phone number.

Administrator—the person responsible for the on-site, daily implementation and supervision of the overall facility's operation. The administrator shall have a Bachelor's degree in a social services field and four years of experience in a similar type of child care facility, or a Master's degree and two years of related experience.

Bedroom Space—a distinct area used as a sleeping area for clients; a dormitory-style bedroom may be broken into several bedroom spaces by the use of partitions. A facility shall have a minimum of 60 square feet of floor area per child in living areas accessible to children and excluding halls, closets, bathrooms, bedrooms, staff or staff's family quarters, laundry areas, storage areas and office areas.

Client—a person who receives service from a provider.

Client's Service Plan—a daily care plan based on the assessment of a client's psychological, social and educational evaluations.

Contractor—any person who renders professional services, therapeutic services, enrichment services, or counseling to residents such as educational consulting, athletic, or artistic services within a residential home, whose services are not integral to either the operation of the residential home or to the care and supervision of residents. Contractors may include, but are not limited to social workers, counselors, dance instructors, gymnastic or sports instructors, computer instructors, speech therapists, licensed health care professionals, art instructors, state-certified teachers employed through a local school board, and other outside contractors. A person shall not be deemed a contractor if he/she is a staff person of the residential home.

Curator—a person appointed by the court when an individual is interdicted to act as guardian with either limited or full powers over the individual's estate and/or person, depending upon the needs of the individual interdicted.

Department (DCFS)—Department of Children and Family Services formerly the Department of Social Services.

Discipline—a system of rules governing conduct which usually prescribes consequences for the violation of particular rules.

Direct Service Management—the act of controlling the various aspects of a provider involving direct services to clients in order to ensure effective care and treatment.

Direct Service Worker—any employee of a provider who works directly with clients as a major function of his/her job.

Documentation—written evidence or proof, signed and dated by the parties involved (director, parents, staff, etc.), and available for review.

DSS—Department of Children and Family Services.

Facility—any place, program, institution, or agency operating a child care facility or child-placing agency as defined in R.S. 46:1403, including those owned or operated by governmental, private, or religious organization or entity.

Family—the natural or adoptive father, mother, brother(s) and sister(s), but "family" may be interpreted broadly to include any person, whether related to the client by blood or not, who resides in the client's home and takes part in the client's family life.

Governing Body—a person or persons with the ultimate responsibility for conducting the affairs of a provider as, for example, the board of directors.

Legally Responsible Person—as appropriate, the parent(s) or tutor of a minor or the curator of an interdicted client.

License—a written certification, whether provisional, extended or regular, of a provider's authorization to operate under state law.

Licensing Section—DCFS, Division of Programs, Licensing Section.

Living Unit—an integral living space utilized by a particular group of clients who reside in that space.

Mandated Reporter—professionals who may work with children in the course of their professional duties and who consequently are required to report all suspected cases of child abuse and neglect. This includes any person who provides training and supervision of a child, such as a public or private school teacher, teacher's aide, instructional aide, school principal, school staff member, social worker, probation officer, foster home parent, group home or other child care institution staff member, personnel of residential home facilities, a licensed or unlicensed day care provider, any individual who provides such services to a child, or any other person made a mandatory reporter under Article 603 of the Children's Code or other applicable law.

Owner or *Operator*—individual or juridical entity exercising direct or indirect control over a licensed entity.

1. For licensing purposes the following are considered owners:

a. *Individual Ownership*—individual and spouse listed on the licensing application submitted and who have access to the children/youth in care of the provider and/or children/youth who receive services from the provider and/or who are present at any time on the facility premises when children/youth are present;

b. *Partnership*—all limited or general partners and managers who are listed on the licensing application submitted and who have access to the children/youth in care of the provider and/or children/youth who receive services from the provider, and/or who are present at any time on the facility premises when children/youth are present;

c. *Church Owned, University Owned* or *Governmental Entity*—any clergy and/or board member who is listed on the licensing application submitted and who has access to the children/youth in care of the provider, and/or children/youth who receive services from the provider, and/or who is present at any time on the facility premises when children/youth are present; or

d. *Corporation* (includes limited liability companies)—individual(s) who is registered as an officer of the board with the Louisiana Secretary of State and/or listed on the licensing application submitted and who has access to the children/youth in care of the provider, and/or children/youth who receive services from the provider, and/or who is present at any time on the facility premises when children/youth are present.

Parent(s)—natural or adoptive mother and father of a client.

Passive Physical Restraint—the least amount of direct physical contact required on the part of a staff member to prevent a client from harming himself/herself or others.

Provider—any 24-hour residential facility, whether public or private, that services clients.

Psychotropic Medication—prescription medication given for the purpose of producing specific changes in mood, thought processes, or behavior. They exert specific effects on brain function and can be expected to bring about specific clinically beneficial responses in clients for whom they are prescribed. The term as used in this policy does not include all drugs which affect the central nervous system or which may have behavioral effects; e.g., anticonvulsants or hormones.

Reasonable Suspicion—to have or acquire information containing specific and articulable facts indicating that an owner, operator, current or potential employee, or volunteer has been investigated and determined to be the perpetrator of abuse and/or neglect of a minor with a justified (valid) finding currently recorded on the state central registry.

Resident—an individual who receives care at a residential home and whose parents do not live in the same facility nor is the individual related to the owner of the facility.

Restraint—the extraordinary restriction of a client's freedom or freedom of movement.

Safety Interventions—an immediate time limited plan to control the factor(s) that may result in an immediate or impending serious injury/harm to a child(ren).

Service Plan—a comprehensive, time-limited goal-oriented, individualized plan for care, treatment and education of a client in the care of a provider. The service plan is based on a current comprehensive evaluation of the client's needs.

Social Worker—a Master's level professional.

Staff—all full or part-time paid or unpaid staff who perform services for the child residential facility and have direct or indirect contact with children at the facility. Facility staff includes the director and any other employees of the facility including, but not limited to the cook, housekeeper, driver, custodian, secretary, and bookkeeper excluding extra-curricular personnel.

State Central Registry—repository that identifies individuals with certain justified (valid) findings of abuse and/or neglect of a child or children by the Department of Children and Family Services.

Time-Out Procedure—the isolation of a client for a period of less than 30 minutes in an unlocked room.

Training—any activity outside the normal routine of the provider which promotes the development of skills related to client care, increases the knowledge of the person involved in a related field or fosters the development of increased professionalism.

Treatment Strategy—an orientation or set of clinical techniques included in a particular therapeutic model and used to meet a diagnosed need of a client in care over and above the provisions of basic care.

Unlicensed Operation—operation of any child residential facility, at any location, without a valid, current license issued by the department for that location.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:477 and R.S. 46:1410 et seq.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of the Secretary, Bureau of Licensing, LR 27:1567 (September 2001), repromulgated by the Department of Social Services, Office of the Secretary, Bureau of Residential Licensing, LR 33:2742 (December 2007), repromulgated by the Department of Social Services, Office of Community Services, LR 35:1619 (August 2009), amended by the Department of Children and Family Services, Division of Program, Licensing Sections, LR 38:972 (April 2012), amended by the Department of Children and Family Services, Licensing Sections, LR 45:509 (April 2019), effective May 1, 2019, LR 46:687 (May 2020), effective June 1, 2020.

§6959. Administration and Organization

NOTE: This Section has been moved from LAC 67:I.1959.

A. Class "B" facilities must comply with all regulations set by the Office of the State Fire Marshal, the Office of Public Health, local zoning laws and all laws regarding child abuse or neglect. Client-staff ratios and minimum space requirements will be enforced by the Department of Social Services. Class "B" facilities must comply with regulations restricting hiring felons, prohibiting racial discrimination and prohibiting the use of corporal punishment without parental permission, and with all other regulations promulgated by the Department of Social Services. Core regulations must promote safe physical facilities, adequate supervision and qualified staff, healthful food service, procedures for nighttime care, and procedures for the disposition of complaints.

B. General Requirements

1. A provider shall follow federal and state laws on client civil rights. No residential facility shall discriminate based on race, color, creed or national origin or ancestry. However, this shall not restrict the hiring or admission policies of a church or religious organization which may give preference in hiring or admission to members of the church or denomination.

2. It shall be the duty of the department, through its duly authorized agents, to inspect at regular intervals not to exceed one year, or as deemed necessary by the department and without previous notice, all residential child care facilities subject to the provisions of Chapter 14 of Title 46. The department shall also develop and facilitate coordination with and among other authorized agencies making inspections at regular intervals. The facility shall be open to inspection only during working hours by parents or legal guardians of clients in care and by authorized inspection personnel.

3. Owners shall have a fingerprint-based criminal background check through the FBI on file with the residential home as noted in Section 6966.A and/or Section 6966.B, as applicable in accordance with R.S. 46:51.2 and 15:587.1.

4. The following is a listing of individuals by organizational type who are required to submit documentation of a satisfactory fingerprint-based criminal background clearance conducted through the FBI:

a. *Individual Ownership*—individual and spouse listed on the licensing application submitted and who have access to the children/youth in care of the provider and/or children/youth who receive services from the provider and/or who are present at any time on the facility premises when children/youth are present;

b. *Partnership*—all limited or general partners and managers who are listed on the licensing application submitted and who have access to the children/youth in care of the provider and/or children/youth who receive services from the provider, and/or who are present at any time on the facility premises when children/youth are present;

c. *Church Owned, University Owned* or *Governmental Entity*—any clergy and/or board member who is listed on the licensing application submitted and who has access to the children/youth in care of the provider, and/or children/youth who receive services from the provider, and/or who is present at any time on the facility premises when children/youth are present; or

d. *Corporation* (includes limited liability companies)—individual(s) who is registered as an officer of the board with the Louisiana Secretary of State and/or listed on the licensing application submitted and who has access to the children/youth in care of the provider, and/or children/youth who receive services from the provider, and/or who is present at any time on the facility premises when children/youth are present.

5. When an individual is listed on the licensing application or the Secretary of State's website as an officer and does not have access to children/youth in care or who receive services from the provider and/or is not present at any time on the facility premises when children/youth are present, a DCFS approved attestation form signed and dated by the individual is acceptable in lieu of a satisfactory fingerprint-based CBC through the FBI. The attestation form shall be accepted for a period of one year from the date individual signed attestation form.

6. CBCs/attestation forms shall be dated prior to the issuance of the initial license, but no earlier than 45 days prior to the initial application being received by the Licensing Section.

7. Providers and child care staff shall not permit an individual convicted of a sex offense as defined in R.S. 15:541 to have physical access to a child residential facility as defined in R.S. 46:1403.

8. The owner or director of a child residential facility shall be required to call and notify law enforcement personnel and the Licensing Section management staff if they have knowledge that a registered sex offender is on the premises of the child residential facility. The verbal report shall be followed by a written report to the Licensing Section within 24 hours. The owner or director of a child residential facility shall be required to call and notify law enforcement personnel if they have knowledge that a registered sex offender is within 1,000 feet of the child day care facility as required by R.S 14:91.1.

9. All owners shall have documentation of a state central registry clearance as required in §6962.

10. In accordance with R.S. 46:1428 providers shall make available to each child's parent or legal guardian information relative to the risks associated with influenza and the availability, effectiveness, known contraindications and possible side effects of the influenza immunization. This information shall include the causes and symptoms of influenza, the means by which influenza is spread, the places a parent or legal guardian may obtain additional information and where a child may be immunized against influenza. The information shall be updated annually if new information on the disease is available. The information shall be provided annually to each licensed facility by the Department of Children and Family Services and shall be made available to parents or legal guardians prior to November 1 of each year.

11. A new fingerprint-based satisfactory criminal background check through the FBI and Louisiana State Central Registry clearances are required if an individual is terminated, resigns, or no longer provides services for longer than one 24-hour period and is then re-instated.

C. Other Jurisdictional Approvals. The provider shall show appropriate evidence of compliance with all relevant standards, regulations and requirements established by federal, state, local and municipal regulatory bodies including DSS Licensing Bureau, Office of Health Services, Office of the State Fire Marshal, city fire marshal's office (if applicable), applicable local zoning ordinances (if applicable) and Department of Education (if applicable).

D. Governing Body

1. A provider shall have an identifiable governing body with responsibility for and authority over the policies and activities of the provider.

2. A provider shall have documents identifying all members of the governing body; their addresses; their terms of membership, if applicable; officers of the governing body, if applicable; and terms of office of all officers, if applicable.

3. When the governing body of a provider is composed of more than one person, the governing body shall hold formal meetings at least twice a year. A provider shall have written minutes of all formal meetings of the governing body, and by-laws specifying the frequency of meetings and quorum requirements.

E. Responsibilities of a Governing Body. The governing body of a provider shall:

1. ensure the provider's compliance and conformity with the provider's charter;

2. ensure the provider's continual compliance and conformity with all relevant federal, state, local and municipal laws and regulations;

3. ensure that the provider is adequately funded and fiscally sound;

4. review and approve the provider's annual budget;

5. ensure that the provider is housed, maintained, staffed and equipped appropriately considering the nature of the provider's program;

6. designate a person to act as chief administrator and delegate sufficient authority to this person to manage the provider;

7. formulate and annually review, in consultation with the chief administrator, policies concerning the provider's philosophy, goals, current services, personnel practices and fiscal management;

8. annually evaluate the chief administrator's performance;

9. have the authority to dismiss the chief administrator;

10. meet with representatives of DSS whenever required to do so;

11. inform representatives of DSS prior to initiating any substantial changes in the program, services, or physical plant of the provider.

F. Accessibility of Executive. The chief administrator or a person authorized to act on behalf of the chief administrator shall be accessible to provider staff or representatives of DSS at all times.

G. Documentation of Authority to Operate

1. A private provider shall have documentation of its authority to operate under state law.

2. A privately owned provider shall have documents identifying the names and addresses of owners.

3. A corporation, partnership or association shall identify the names and addresses of its members and officers and shall, where applicable, have a charter, partnership agreement, constitution, articles of association or by-laws.

H. Statement of Philosophy and Goals. A provider shall have a written statement describing its philosophy and both long-term and short-term goals.

I. Program Description. A provider shall have a written program plan describing the services and programs offered by the provider.

J. Accounting and Recordkeeping

1. A provider should establish a system of business management and staffing to assure maintenance of complete and accurate accounts, books and records.

2. A provider shall ensure that all entries in records are legible, signed by the person making the entry and accompanied by the date on which the entry was made.

3. All records shall be maintained in an accessible, standardized order and format and shall be retained and disposed of according to state and federal laws.

K. Confidentiality and Security of Files

1. A provider shall have written procedures for the maintenance and security of records specifying who shall supervise the maintenance of records, who shall have custody of records, and to whom records may be released. Records shall be the property of the provider and the provider, as custodian, shall secure records against loss, tampering or unauthorized use.

2. A provider shall maintain the confidentiality of all clients' case records. Employees of the provider shall not disclose or knowingly permit the disclosure of any information concerning the client or his/her family, directly or indirectly, to any unauthorized person.

3. A provider shall obtain written authorization of the client and the client's parent(s), tutor or curator, as applicable, prior to releasing the client's confidential records to anyone other than authorized state or federal agencies or another provider to whom the client may be released.

4. A provider shall, upon request, make available information in the case record to the client, the legally responsible person or legal counsel of the client. If, in the professional judgment of the administration of the provider, it is felt that information contained in the record would be damaging to a client, then that information may be withheld except under court order.

5. A provider may use material from case records for teaching or research purposes, development of the governing body's understanding and knowledge of the provider's services, or similar educational purposes, provided that the client's name and other identifying information is disguised or deleted.

L. Administrative File. A provider shall have an administrative file including:

1. documents identifying the governing body;

2. list of members and officers of the governing body and their addresses and terms of membership, if applicable;

3. documentation of the provider's authority to operate under state law;

4. organizational chart of the provider;

5. insurance policies; and

6. master list of all consulting professional providers used by the provider.

M. Client's Case Record. A provider shall have a written record for each client which shall include administrative, treatment, and educational data from the time of admission

until the time the client leaves the provider. A client's case record shall include:

1. name, sex, race, religion, birth date and birthplace of the client;

2. other identification data including court status, legal status, who is authorized to give consents;

3. client's history including, if applicable, family data, educational background, employment record, prior medical history and prior placement history;

4. copy of the client's individual service plan and any modifications thereto, and an appropriate summary to guide and assist direct service workers in implementing the client's program; and

5. findings made in periodic reviews of the plan, including summary of the successes and failures of the client's program and recommendations for any modifications deemed necessary.

N. Medical and Dental Records

1. A provider shall maintain complete health records of a client including:

a. report of admission physical examination;

b. complete record of all immunizations provided;

c. record of medications;

d. records of vision, physical or dental examinations;

e. complete record of any medical treatment provided for specific illness or medical emergencies; and

f. authorization signed by the parent or legal guardian for medical care, immunizations and hospitalization, when indicated.

2. Upon discharge the provider shall provide a summary of the client's health record to the person or agency responsible for the future planning and care of the client.

3. A provider shall make every effort to compile a complete past medical history on every client. This history shall, whenever possible, include:

a. allergies to medication;

b. immunization history;

c. history of serious illness, serious injury or major surgery;

d. developmental history;

e. current use of prescribed medication;

f. current use of alcohol or nonprescribed drugs; and

g. medical history.

O. Personnel File

1. A provider shall have a personnel file for each employee which shall contain:

a. application for employment and/or résumé;

b. three reference letters from former employer(s) and personal references or phone notes on such references;

c. any medical examinations required by the provider;

d. documentation of a satisfactory fingerprint-based criminal record check for each staff person through the FBI as noted in Section 6966.C and/or Section 6966.D, as applicable and required by R.S. 46:51.2.;

e. evidence of applicable professional credentials/certifications according to state law;

f. annual performance evaluations;

g. personnel actions, other appropriate materials, reports and notes relating to the individual's employment with the facility;

h. employee's starting and termination dates;

i. documentation of a state central registry clearance as required in §6962.

2. The staff member shall have reasonable access to his/her file and shall be allowed to add any written statement he/she wishes to make to the file at any time.

3. A provider shall retain the personnel file of an employee for at least three years after the employee's termination of employment.

P. Fund Raising and Publicity

1. A provider shall have a policy regarding participation of clients in activities related to fund raising and publicity.

2. Consent of the client and, if applicable, the legally responsible person shall be obtained prior to participation in fund raising activities.

3. A provider shall have policies and procedures regarding the photographing and audio or audio-visual recording of clients.

4. The written consent of the client and, if applicable, the legally responsible person shall be obtained before the client is photographed or recorded for research or program publicity purposes.

5. All photographs and recordings shall be used in a manner which respects the dignity and confidentiality of the client.

Q. Representation at Hearings. A provider shall, when allowed by law, have a representative present at all judicial, educational or administrative hearings which address the status of the client in care of the provider.

R. Facility, Staff, Client and Records Accessibility

1. The provider shall allow representatives of DCFS access to the facility, the children, and all files and records at any time during hours of operation and/or anytime a child is present. DCFS staff shall be allowed to interview any staff member or child as determined necessary by DCFS. DCFS representatives shall be admitted immediately and without delay, and shall be given free access to all areas of a facility, including its grounds. If any portion of a facility is set aside for private use by the facility's owner, DCFS representatives shall be permitted to verify that no child is present in that portion and that the private areas are inaccessible to children. If as a result of a preliminary investigation, or other DCFS inspection, DCFS determines that one or more safety issues exists, DCFS may require implementation of a safety intervention plan. In such a case, the provider shall cooperate and adhere to any written safety intervention as determined, enumerated, and mandated by DCFS staff.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:477 and R.S. 46:1401 et seq.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of the Secretary, Bureau of Licensing, LR 27:1567 (September 2001), repromulgated by the Department of Social Services, Office of the Secretary, Bureau of Residential Licensing, LR 33:2743 (December 2007), repromulgated by the Department of Social Services, Office of Community Services, LR 35:1620 (August 2009), amended LR 36:331 (February 2010), amended by the Department of Children and Family Services, Division of Programs, Licensing Section, LR 38:973 (April 2012), amended by the Department of Children and Family Services, Licensing Section, LR 45:509 (April 2019), effective May 1, 2019, LR 46:688 (May 2020), effective June 1, 2020.

§6961. Human Resources

NOTE: This Section has been moved from LAC 67:I.1961.

A. Staff Plan. A provider should have a policy for recruitment, supervision and training.

1. Screening

a. A provider's screening procedures should address the prospective employee's qualifications, ability, related experience, character, and social skills as related to the appropriate job description.

b. Prior to employing any person and upon obtaining a signed release and the names of references from the potential employee, a provider shall obtain written references or phone notes on oral references from three persons.

c. All center staff shall be required to obtain within two weeks before or 30 days after beginning work and at least every three years thereafter a written statement from a physician certifying that the individual is:

i. in good health and physically able to care for clients; and

ii. free from infectious and contagious diseases.

d. Prior to or 30 days after the time of employment all persons shall be free of tuberculosis in a communicable state as evidenced by a negative skin test or a negative chest X-ray. Evidence that an employee is free of active tuberculosis is required on an annual basis thereafter.

e. The director or any center staff shall not remain at work if he/she has any sign of a contagious disease.

f. A provider shall not knowingly hire, or continue to employ, any person whose health impairs his/her ability to properly protect the health and safety of the clients or is such that it would endanger the physical or psychological well being of the clients. This requirement is not to be interpreted to exclude the hiring or continued employment of persons undergoing temporary medical or emotional problems if the health and safety of the clients can be assured through reasonable accommodation of the employee's condition.

2. Orientation. A provider's orientation program shall provide training for new employees to acquaint them with the philosophy, organization, program, practices and goals of the facility, and shall include instruction in safety and emergency procedures and in the specific responsibilities of the employee's job.

3. Training

a. A provider is encouraged to provide in-service training each year. Orientation training and activities related to routine supervision of the employee's task shall not be considered as in-service training.

b. All staff are to maintain a current certification of CPR training. New employees will have 90 days to comply. Documentation will be a copy of certificates on file at the facility.

4. Evaluation

a. A provider should undertake an annual performance evaluation of all staff members.

b. For any person who interacts with clients, a provider's evaluation procedures shall address the quality and nature of a staff member's relationships with clients.

B. Personnel Practices. A provider shall have written personnel policies and written job descriptions for each staff position.

C. Number and Qualifications of Staff

1. A provider shall employ a sufficient number of qualified staff and delegate sufficient authority to such staff to ensure that the responsibilities the provider undertakes are carried out and to adequately perform the following functions:

a. administrative functions;

b. fiscal functions;

c. clerical functions;

d. housekeeping, maintenance and food service functions;

e. direct client service functions;

f. supervisory functions;

g. record keeping and reporting functions;

h. social service functions; and

i. ancillary service functions.

2. A provider shall ensure that all staff members are properly certified and/or licensed as legally required.

3. A provider shall ensure that an adequate number of qualified direct service staff are present with the clients as necessary to ensure the health and well-being of clients. Staff coverage shall be maintained in consideration of the time of day, the size and nature of the provider and the ages, needs and functioning levels of the clients.

4. A provider shall ensure that direct services staff who perform client-living services are administratively responsible to a person whose training and experience is appropriate to the provider's program.

D. External Professional Services. A provider shall obtain any required professional services not available from employees.

E. Volunteers/Student Interns. A provider which utilizes volunteers or student interns on a regular basis shall have a written plan for using such resources. This plan shall be given to all volunteers and interns. The plan shall indicate that all volunteers and interns shall be:

1. directly supervised by a paid staff member;

2. oriented and trained in the philosophy of the facility and the needs of clients and the methods of meeting those needs;

3. subject to character and reference checks similar to those performed for employment applicants upon obtaining a signed release and the names of the references from the potential volunteer/intern student;

4. aware of and briefed on any special needs or problems of clients;

5. have a criminal background check for each volunteer through the FBI as required in R.S. 15:587.1 and R.S. 46:51.2 and as outlined in §6966.C and/or 6966.D., as applicable; and

6. free of a valid finding of child abuse and/or neglect as noted on the state central registry in accordance with §6962.

F. Staff Communications

1. A provider shall establish procedures to assure adequate communication among staff to provide continuity of services to the client. This system of communication shall include:

a. a regular review of individual and aggregate problems of clients including actions taken to resolve these problems;

b. sharing of daily information, noting unusual circumstances, and other information requiring continued action by staff; and

c. records maintained of all accidents, personal injuries and pertinent incidents related to implementation of clients' individual service plans.

2. Any employee of a provider working directly with clients in care shall have access to information from clients' case records that is necessary for effective performance of the employee's assigned tasks.

3. A provider shall establish procedures which facilitate participation and feedback by staff members in policymaking, planning and program development for clients.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:477 and R.S. 46:1410 et seq.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of the Secretary, Bureau of Licensing, LR 27:1570 (September 2001), repromulgated by the Department of Social Services, Office of the Secretary, Bureau of Residential Licensing, LR 33:2745 (December 2007), repromulgated by the Department of Social Services, Office of Community Services, LR 35:1622 (August 2009), amended by the Department of Children and Family Services, Division of Programs, Licensing Section, LR 38:975 (April 2012), amended by the Department of Children and Family Services, Licensing Section, LR 45:510 (April 2019), effective May 1, 2019, LR 46:688 (May 2020), effective June 1, 2020.

§6962. State Central Registry

A. State Central Registry Checks for Owners

1. Prior to May 1, 2019, in accordance with R.S. 46:1414.1, all owners and operators affiliated with a facility were required to have on file a state central registry clearance form from child welfare stating that the owners/operators were not listed on the state central registry. No person recorded on any state's child abuse and neglect registry with a justified (valid) finding of abuse or neglect of a child shall be eligible to own, operate, or participate in the governance of a residential home.

a. When an individual is listed on the licensing application or the Secretary of State's website as an officer and does not have access to children/youth in care or children/youth who receive services from the provider and/or is not present at any time on the facility premises when children/youth are present, a DCFS approved attestation form signed and dated by the individual is acceptable in lieu of a state central registry clearance. The attestation form shall be accepted for a period of one year from the date individual signed attestation form.

2. Prior to May 1, 2019, all owners and operators affiliated with a facility were required to have on file a clearance from any other state's child abuse and neglect registry in which the owner/operator resided within the proceeding five years. No person recorded on any state's child abuse and neglect registry with a justified (valid) finding of abuse and/or neglect of a child was eligible to own, operate, or participate in the governance of the residential home.

3. In accordance with R.S. 46:1414.1, an inquiry of the State Central Registry for all owners and operators shall

be conducted prior to a license being issued or if currently licensed, prior to the addition of a new board member who meets the definition of an owner. The Louisiana State Central Registry clearance form shall be dated no earlier than 45 days prior to the application being received by the Licensing Section or the addition of a new board member who meets the definition of an owner. For states other than Louisiana, clearance forms shall be dated no earlier than 120 days prior to the application being received by the Licensing Section or the addition of a new board member who meets the definition of an owner; however, individuals who continue to reside outside of the state of Louisiana, but own/operate a residential home in Louisiana, their clearances shall be dated prior to the issuance of the initial license, but no earlier than 45 days prior to the initial application being received by the Licensing Section. No person who is recorded on any state's child abuse and neglect registry with a valid justified (valid) finding of abuse or neglect of a child shall be eligible to own, operate, or participate in the governance of the residential home.

a. When an individual is listed on the licensing application or the Secretary of State's website as an officer and does not have access to children/youth in care or children/youth who receive services from the provider and/or is not present at any time on the facility premises when children/youth are present, a DCFS approved attestation form signed and dated by the individual is acceptable in lieu of a state central registry clearance. The attestation form shall be accepted for a period of one year from the date individual signed the attestation form.

4. If an owner/operator resided in another state within the proceeding five years, provider shall request a check and obtain clearance information from that state's child abuse and neglect registry prior to the license being issued or if currently licensed, prior to the addition of a new board member who meets the definition of an owner. No person who is recorded on any state's child abuse and neglect registry with a justified (valid) finding of abuse and/or neglect of a child shall be eligible to own, operate, or participate in the governance of a residential home.

a. If the provider requests an out-of-state state central registry check and that state advises that they are unable to process the request due to statutory limitations, documentation of such shall be kept on file.

5. Upon notification from child welfare that an owner/operator(s) is not listed on the state central registry, the provider shall maintain on file the child welfare notification that the owner's name does not appear on the registry with a justified (valid) finding of abuse and/or neglect.

6. A request for a state central registry clearance shall be submitted by provider for all owners/operators to child welfare every five years prior to the date noted on the state central registry clearance notification and at any time upon the request of DCFS if reasonable suspicion exists that an individual may be listed on the state central registry.

7. If the owner/operator receives a justified (valid) finding after receiving notification from child welfare that he was not listed on the state central registry and the owner/operator advises the provider prior to his/her appeal rights being exhausted, licensing shall be notified within 24 hours or no later than the next business day, whichever is shorter.

a. The owner/operator shall be directly supervised by a paid staff (employee) of the residential home and at any and all times when he/she is in the presence of a child/youth. The employee responsible for supervising the individual must not be a suspected perpetrator with a justified (valid) determination of abuse and/or neglect.

b. Under no circumstances shall the owner/operator, with the justified (valid) finding of abuse and/or neglect, be left alone and unsupervised with a child/youth pending the official determination from child welfare that the individual is or is not listed on the state central registry.

8. Upon notification to the provider from child welfare that the owner/operator is listed on the state central registry, the owner/operator shall no longer be eligible to own, operate, or participate in the governance of the residential home. The owner/operator may voluntarily withdraw the application for licensure or if he/she chooses not to withdraw the application, the application shall be immediately denied. If the individual with the justified (valid) finding of abuse and/or neglect is a member of the residential home board, the provider shall submit a signed, dated statement to licensing within 24 hours or no later than the next business day indicating that the board member has resigned his position on the board or has been relieved of his position on the board with the effective date of the resignation/removal. Within seven calendar days, provider shall also submit to licensing documentation verifying that the individual's name has been removed from the Secretary of State's website if the CPA is owned/operated by a corporation. After receipt of the statement, the application for licensure may continue to be processed.

9. Any information received or knowledge acquired by a provider that a current owner is a perpetrator of abuse and/or neglect with a justified (valid) determination of abuse or neglect prior to receipt of official notification from child welfare, shall be immediately reported verbally to licensing management staff and followed up in writing no later than the close of business on the next business day. Prior to receipt of the official notification and immediately upon the knowledge that a justified (valid) finding has been issued by DCFS, the individual shall be directly supervised by a paid staff (employee) of the residential home, at any and all times when he/she is present on the premises and/or is in the presence of a child/youth. The employee responsible for supervising the individual must not be a suspected perpetrator with a justified (valid) determination of abuse and/or neglect. Under no circumstances shall the individual with the valid (justified) finding of abuse and/or neglect be left alone and unsupervised with a child/youth pending the official determination from child welfare that the individual is or is not listed on the state central registry.

10. State central registry clearances are not transferable from one owner to another.

B. State Central Registry Checks for Staff and Volunteers

1. Prior to employment, staff record shall contain a state central registry clearance form indicating that the staff (paid, non-paid, and volunteers) person is not listed on the state central registry with a justified finding of child abuse and/or neglect.

a. Prior to May 1, 2019, all staff (paid, non-paid, and volunteers) were required to have on file a state central registry clearance form from child welfare noting that the staff (paid, non-paid, and volunteers) person is not listed on the state central registry in accordance with R.S. 46:1414.1. No person who is recorded on any state's child abuse and neglect registry with a valid (justified) finding of abuse and/or neglect shall be eligible for employment in a licensed residential home.

b. Prior to May 1, 2019, all staff (paid, non-paid, and volunteers) were required to have on file a clearance from any other state's child abuse and neglect registry in which the staff (paid, non-paid, and volunteers) person resided within the proceeding five years. No person who is recorded on any state's child abuse and neglect registry with a valid (justified) finding of abuse and/or neglect shall be eligible for employment in a licensed residential home.

c. In accordance with R.S. 46:1414.1, an inquiry of the State Central Registry for all staff (paid, non-paid and volunteers) shall be conducted prior to employment being offered to a potential hire. Staff (paid, non-paid, and volunteers) persons who have resided in another state within the proceeding five years, provider shall request a check and obtain State Central Registry clearance from that state's child abuse and neglect registry. Louisiana State Central Registry clearance forms shall be dated no earlier than 45 days prior to the staff (paid, non-paid, and volunteers) being present on the premises or having access to children/youth. Other states State Central Registry clearance forms shall be dated no earlier than 120 days prior to the staff (paid, non-paid, and volunteers) being present on the premises or having access to children/youth; however, individuals who continue to reside outside of the state of Louisiana, but volunteer with and/or work for a licensed provider in the state of Louisiana, their clearances shall be dated no earlier than 45 days prior to hire and/or having access to children/youth. No person who is recorded on any state's child abuse and neglect registry with a valid (justified) finding of abuse and/or neglect shall be eligible for employment in a licensed residential home.

i. If the provider requests an out-of-state state central registry check and that state advises that they are unable to process the request due to statutory limitations, documentation of such shall be kept on file.

d. Upon notification from child welfare that the staff (paid, non-paid, and volunteers) is not listed on the state central registry, the provider shall maintain on file the state central registry clearance form noting that the staff's (paid, non-paid, and volunteers) name does not appear on the registry with a justified (valid) finding of abuse and/or neglect. A request shall be submitted to child welfare every five years for staff (paid, non-paid, and volunteers) prior to the issue date noted on the state central registry clearance form and at any time upon the request of DCFS if reasonable suspicion exists that a staff (paid, non-paid, and volunteers) may be listed on the state central registry.

e. If after the initial state central registry clearance form is received by provider from child welfare noting that the staff (paid, non-paid, and volunteers) is not listed on the state central registry and due to a new valid finding, the staff (paid, non-paid, and volunteers) receives a subsequent notice that he/she is listed on the state central registry (issued after the provider was licensed) and advises the provider of the new information prior to their appeal rights being exhausted, licensing shall be notified within 24 hours or no later than the next business day, whichever is shorter. The staff (paid, non-paid, and volunteers) with the valid (justified) finding of abuse and/or neglect shall be directly supervised by another paid staff (employee) of the residential home, at any and all times when he/she is present on the premises and/or is in the presence of a child/youth. The employee responsible for supervising the individual shall not be suspected to be a perpetrator with a justified (valid) determination of abuse and/or neglect. Under no circumstances shall the staff (paid, non-paid, and volunteers) with the valid (justified) finding of abuse and/or neglect be left alone and unsupervised with a child/youth pending the official determination from child welfare that the individual is or is not listed on the state central registry.

f. Upon notification to the provider from child welfare that the staff (paid, non-paid, and volunteers) is listed on the state central registry, the staff (paid, non-paid, and volunteers) shall no longer be eligible for employment with the residential home. The provider shall submit a signed, dated statement to licensing within 24 hours, but no later than the next business day indicating that the staff (paid, non-paid, and volunteers) with the valid (justified) finding of abuse and/or neglect has been terminated. If this statement is not received by licensing within the aforementioned timeframe, the application shall be denied or license shall be immediately revoked.

g. Any information received or knowledge acquired by the provider that a current staff (paid, non-paid and volunteer) is a perpetrator of abuse and/or neglect with a justified (valid) determination of abuse or neglect prior to receipt of official notification from child welfare, shall be immediately reported verbally to licensing management staff and followed up in writing no later than the close of business on the next business day. Prior to receipt of the official notification and immediately upon the knowledge that a justified (valid) finding has been issued by DCFS, the individual shall be directly supervised by a paid staff (employee) of the residential home, at any and all times when he/she is present on the premises and/or is in the presence of a child/youth. The employee responsible for supervising the individual must not be suspected to be a

perpetrator with a justified (valid) determination of abuse and/or neglect. Under no circumstances shall the individual with the valid (justified) finding of abuse and/or neglect be left alone and unsupervised with a child/youth pending the official determination from child welfare that the individual is or is not listed on the state central registry.

h. State central registry clearances are not transferable from one owner to another.

C. State Central Registry Checks for Contractors

1. Contractors who provide services to children/youth unaccompanied by paid staff or have access to children/youth unaccompanied by a paid staff shall have on file at the facility a state central registry clearance form which indicates that the contractor is not listed on any State Central registry with a valid finding of child abuse and/or neglect.

a. Prior to May 1, 2019, all contractors providing services to the residential home were required to have on file a state central registry clearance form from child welfare that the contractor is not listed on the state central registry in accordance with R.S. 46:1414.1. No person who is recorded on any state's child abuse and neglect registry with a valid (justified) finding of abuse and/or neglect shall be eligible for employment or provide services in a licensed residential home.

b. Prior to May 1, 2019 , all contractors providing services to the residential home were required to have on file a clearance from any other state's child abuse and neglect registry in which the contractor resided within the proceeding five years. No person who is recorded on any state's child abuse and neglect registry with a valid (justified) finding of abuse and/or neglect shall be eligible for employment or provide services in a licensed residential home.

c. For individuals who have resided in another state within the proceeding five years, provider shall request a check and obtain clearance information from that state's child abuse and neglect registry prior to providing services or having access to children/youth.

i. If the provider requests an out-of-state state central registry check and that state advises that they are unable to process the request due to statutory limitations, documentation of such shall be kept on file.

d. Louisiana State Central Registry clearance forms shall be dated no earlier than 45 days prior to the individual providing services or having access to children/youth. Other state's State Central Registry clearance information shall be dated no earlier than 120 days prior to the individual providing services or having access to children/youth; however, individuals who continue to reside outside of the state of Louisiana, but contract with and/or work for a licensed provider in the state of Louisiana, their clearances shall be dated no earlier than 45 days prior to hire and/or having access to children/youth. No person who is recorded on any state's child abuse and neglect registry with a valid (justified) finding of abuse and/or neglect shall be eligible for employment in a licensed residential home.

e. Upon notification from child welfare that the individual is not listed on the state central registry, the provider shall maintain on file the state central registry clearance indicating that the individual's name does not appear on the registry with a justified (valid) finding of abuse and/or neglect. No person who is recorded on any state's child abuse and neglect registry with a valid (justified) finding of abuse and/or neglect shall be eligible to provide services in a licensed residential home.

f. A request shall be submitted to child welfare every five years for contractors prior to the issue date noted on the state central registry clearance form and at any time upon the request of DCFS if reasonable suspicion exists that a staff may be listed on the state central registry.

g. If after the initial state central registry clearance form is received by provider from child welfare noting that the individual is not listed on the state central registry and due to a new valid finding, the contractor receives a subsequent notice that he/she is listed on the state central registry (issued after the provider was licensed) and advises the provider of the new information prior to their appeal rights being exhausted, licensing shall be notified within 24 hours or no later than the next business day, whichever is shorter. The individual with the valid (justified) finding of abuse and/or neglect shall be directly supervised by a paid staff (employee) of the residential home at any and all times when he/she present on the premises and/or is in the presence of a child/youth. The employee responsible for supervising the individual must not be suspected to be a perpetrator with a justified (valid) determination of abuse and/or neglect. Under no circumstances shall the individual with the valid (justified) finding of abuse and/or neglect be left alone and unsupervised with a child/youth pending the official determination from child welfare that the individual is or is not listed on the state central registry.

h. Upon notification to the provider from child welfare that the contractor is listed on the state central registry, the individual shall no longer be eligible to provide services for the residential home. The provider shall submit a signed, dated statement to licensing within 24 hours or no later than the next business day indicating that the individual with the valid (justified) finding of abuse and/or neglect has been relieved of his duties with the residential home with the effective date of termination of services. If this statement is not received by licensing within the aforementioned timeframe, the license shall be immediately revoked.

i. Any information received or knowledge acquired by the provider that a current contractor is a perpetrator of abuse and/or neglect with a justified (valid) determination of abuse or neglect prior to receipt of official notification from child welfare, shall be immediately reported verbally to licensing management staff and followed up in writing no later than the close of business on the next business day. Prior to receipt of the official notification and immediately upon the knowledge that a justified (valid) finding has been

issued by DCFS, the individual shall be directly supervised by a paid staff (employee) of the residential home, at any and all times when he/she is present on the premises and/or is in the presence of a child/youth,. The employee responsible for supervising the individual must not be suspected to be a perpetrator with a justified (valid) determination of abuse and/or neglect. Under no circumstances shall the individual with the valid (justified) finding of abuse and/or neglect be left alone and unsupervised with a child/youth pending the official determination from child welfare that the individual is or is not listed on the state central registry.

j. State central registry clearances are not transferable from one owner to another.

D. Reasonable Suspicion

1. Any information received or knowledge acquired by the provider that a current owner, contractor, volunteer and/or staff, is a perpetrator of abuse and/or neglect after October 1, 2018, with a justified (valid) determination of abuse and/or neglect prior to receipt of official notification from Child Welfare, shall be verbally reported to Licensing management staff immediately and followed up in writing no later than the close of business on the next business day. Prior to receipt of the official notification and immediately upon the knowledge that a justified (valid) finding has been issued by DCFS, the individual shall be directly supervised by a paid staff (employee) of the maternity home, at any and all times when he/she is present on the premises and/or is in the presence of a child/youth. The employee responsible for supervising the individual shall not be suspected to be a perpetrator with a justified (valid) determination of abuse and/or neglect. Under no circumstances shall the individual with the valid (justified) finding of abuse and/or neglect be left alone and unsupervised with a child/youth pending the official determination from Child Welfare that the individual is or is not listed on the state central registry.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1414.1.

HISTORICAL NOTE: Promulgated by the Department of Children and Family Services, Licensing Section, LR 45:510 (April 2019), effective May 1, 2019, LR 46:688 (May 2020), effective June 1, 2020.

§6963. Quality of Life

NOTE: This Section has been moved from LAC 67:I.1963.

A. Family Involvement

1. A provider should create a policy that encourages ongoing positive communication and contact between clients and their families, their friends and others significant in their lives.

2. A provider should discuss the following with the client's family, other legally responsible persons and significant others, when appropriate:

a. the philosophy and goals of the provider;

b. behavior management and disciplinary practices of the provider;

c. any specific treatment or treatment strategy employed by the provider that is to be implemented for a particular client;

d. visiting hours, visiting rules and procedures, arrangements for home visits and procedures for communicating with clients by mail or telephone;

e. the name, telephone number and address of a staff person who may be contacted by the legally responsible person to ask questions or register concerns on an ongoing basis;

f. a procedure for registering complaints concerning the client's care or treatment. All cases of client abuse or neglect or suspicion of abuse or neglect must be reported to the Child Protection Agency in the DSS Office of Community Services for investigation.

3. Visits to parents and relatives in their own homes should be encouraged, unless they are not of benefit to the client, in order to maintain not only family ties but also ties in the neighborhood and community.

4. A written description of these family involvement strategies is suggested.

B. Normalization. A provider shall ensure that:

1. clients of grossly different ages, developmental levels and social needs shall not be housed in close physical or social proximity, unless such housing is planned to promote the growth and development of all those housed together;

2. clients who are nonambulatory, deaf, blind, epileptic, etc., shall be integrated with peers of comparable social and intellectual development and shall not be segregated on the basis of their handicaps.

C. Community Involvement

1. The client should have opportunities to participate in community life when individual treatment has progressed, so that community activities can become part of the treatment plan.

2. The client might participate in activities sponsored by school, church, and national and local youth agencies (Girl Scouts, Boy Scouts, 4-H Clubs, etc.).

3. The client should have help, when necessary, to conform to community standards.

4. Mass excursions, transportation in vehicles labeled with the name of the center, wearing of uniforms, etc., are undesirable if they call attention to the clients and make them feel different from others.

5. Community interest in clients and efforts in their behalf (parties, entertainment, invitations to visit other families, etc.) should be carefully evaluated to ascertain that they are of benefit to the clients and do not exploit their dependency status.

D. Communication and Visits

1. Telephone Communication

a. A provider shall allow a client to receive and originate telephone calls, subject only to reasonable rules and to any specific restriction in the client's service plan.

b. Any restriction on telephone communication in a client's service plan must be formally approved and shall be reviewed every 30 days.

2. Mail

a. A provider shall allow clients to send and receive mail unopened and unread by staff, unless contraindicated by a restriction in the client's service plan which shall be reviewed every 30 days.

b. A provider shall ensure that clients have access to all materials necessary for writing and sending letters and shall, when necessary, ensure that clients who wish to correspond with others are given any required assistance.

3. Visits

a. A provider shall allow a client to visit or be visited by family and friends, subject only to reasonable rules and to any specific restrictions in the client's service plan.

b. Special restrictions shall be imposed only to prevent serious harm to the client. The reasons for any special restrictions shall be recorded in the client's service plan.

c. Special restrictions must be reviewed every 30 days. If restrictions are renewed, the reasons for renewal shall be recorded in the client's service plan.

d. A written description of these rules and procedures is suggested.

E. Routines

1. A provider shall have a written set of daily routines for clients that are designed to provide for reasonable consistency and timeliness in daily activities, in the delivery of essential services to clients and in the provision of adequate periods of recreation, privacy, rest and sleep.

2. Routines should be determined in relation to needs and convenience of both clients and adults living together.

3. Routines should be sufficiently adaptable to a particular client's physical and emotional capacity to conform to them or to allow for special situations.

F. Money and Personal Belongings

1. A provider shall permit and encourage a client to possess his/her own money, either by giving an allowance and/or providing opportunities for paid work, unless otherwise indicated.

2. Money earned, received as a gift or received as allowance by a client shall be deemed to be that client's personal property.

3. Limitations may be placed on the amount of money a client may possess or have unencumbered access to when such limitations are considered to be in the client's best interests.

4. A provider should, as appropriate to the client's age and abilities, provide training in budgeting, shopping and money management.

5. A provider shall allow a client to bring his/her personal belongings to the program and to acquire belongings of his/her own in accordance with the client's service plan. However, the provider shall, as necessary, limit or supervise the use of these items while the client is in care. When extraordinary limitations are imposed, the client shall be informed by staff of the reasons.

6. The security of having and keeping possessions of one's own contributes to a sense of autonomy and identity. Clients should have a safe place for their belongings. Individual storage space should be provided for their collections, play equipment, and other "treasures." Clients with particularly valuable keepsakes may need staff help to keep them safe.

G. Work

1. Each client should be assigned daily or weekly chores that provide opportunities to learn to assume responsibility and to get satisfaction from contributing to work that must be done, according to age, health, interest, ability, and readiness.

2. The chores should be similar to those of family members in the neighboring community. Clients should not be depended upon to do work for which staff should be employed. There should be a limit on the amount of work expected.

3. Staff should approve and supervise all chore assignments. Clients should be encouraged to complete chores, but not forced. Policy for this situation should be covered under the provider's behavior management practices.

4. Clients may be given jobs for which they receive payment, which should be clearly differentiated from duties expected of any client in the course of daily living.

5. When a client engages in off-grounds work, the provider should ensure that:

a. such work is voluntary and in accordance with the client's abilities;

b. the work has been approved by staff;

c. such work is supervised by qualified personnel;

d. the conditions and compensation of such work are in compliance with applicable state and federal laws; and

e. such work does not conflict with the client's service plan.

H. Recreation and Activities

1. Recreation cannot be separated from the total living experience of the client. Play is a learning experience as important as formal education. A recreation program should

offer indoor and outdoor activities in which participation can be encouraged and motivated on the basis of individual interests and needs.

2. A provider should provide recreational services based on the individual needs, interests and functioning levels of the clients served.

3. A provider should utilize the recreational resources of the community whenever appropriate. The provider should arrange the transportation and supervision required for maximum usage of community resources.

4. Exercise promotes health and physical development. When clients improve in fitness, their self-concept also improves. Active group play and competitive activities can be balanced by quiet or independent pursuits.

5. A residential care provider should provide adequate recreational equipment and yard space to meet the needs and abilities of its clients. Recreational equipment should be selected in accordance with the number of clients, their ages and needs, and should allow for imaginative play, creativity, and development of leisure skills and physical fitness.

6. Clients should have time to be alone and to engage in solitary activities that they enjoy, such as reading, drawing, playing with dolls, puppets and other toys, working on collections, roller-skating and bicycling. There should be opportunities for group activities to develop spontaneously, such as group singing, dancing, storytelling, listening to records, games, etc. Use of television may have to be governed by rules about hours when viewing is allowed and about choice of programs.

I. Birthdays. Each client's birthday should be celebrated individually in an appropriate manner in the group living unit.

J. Religion

1. A provider should clearly explain its religious orientation, particular religious practices which are observed, and any religious restrictions on admission. This description shall be provided to the client; the legally responsible person, when appropriate; and the responsible agency.

2. The nonsectarian agency has responsibility to provide opportunities for the client who wants to have an appropriate religious affiliation and religious experiences in accordance with the religious preferences of the parents.

3. The agency under religious auspices, whose religious program is an integral part of its service, should make it clear that its service is so based. Clients whose parents want them to make use of such a service should be able to do so.

4. Clients and families who do not choose to participate in religious activities should not be expected to do so in any residential center.

K. Clothing

1. A provider shall ensure that clients are provided with clean, well-fitting clothing appropriate to the season and to the client's age, sex and individual needs. Clothing shall be maintained in good repair.

2. All clothing provided to a client shall go with the client at discharge.

3. Clothing shall belong to the individual client and not be shared in common.

4. Clothing contributes to the client's feeling of worth and dignity. It represents being valued by adults, respect for individuality and having someone who cares for him or her. Clothing should be provided in a manner that helps the client develop self-esteem and a sense of personal responsibility.

L. Personal Care and Hygiene

1. A provider shall establish procedures to ensure that clients receive training in good habits of personal care, hygiene and grooming, appropriate to their age, sex, and race.

2. Each client should have the personal help that all persons need at times, regardless of age, in waking, dressing, deciding what to wear, combing hair, caring for clothing, grooming, getting ready for meals or school, keeping appointments, going to bed, etc.

M. Food Services

1. It is preferable to have one person in charge of food service who is familiar with nutrition, food service and management. The person responsible for food service should be aware of clients with special nutritional needs, and manage the resources of the dietary services to achieve effective food delivery.

2. A provider shall ensure that a client is provided at least three meals or their equivalent daily at regular times with not more than 14 hours between the evening meal and breakfast of the following day. Meal times shall be comparable to those in a normal community home.

3. A provider should develop written menus at least one week in advance.

4. Records of foods purchased shall be maintained on file for 30 days. Menus should provide for a sufficient variety of foods and shall vary from week to week.

5. No client shall be denied a meal for any reason except according to a doctor's order.

6. No client shall be forced-fed or aggressively coerced to eat against his/her will except by order of a doctor.

7. When meals are provided to staff, a provider shall ensure that staff members eat substantially the same food served to clients in care, unless age differences or special dietary requirements dictate differences in diet.

8. A provider shall purchase and provide to clients only food and drink of safe quality, and the storage,

preparation and serving techniques shall ensure that nutrients are retained and spoilage is prevented.

9. Milk and milk products shall be Grade A and pasteurized.

N. Health Care

1. A provider shall ensure the availability of a comprehensive program of preventive, routine and emergency medical and dental care, as appropriate, for all clients.

2. The provider shall show evidence of access to the following health care aspects:

a. ongoing appraisal of the general health of each client;

b. provision for health education, as appropriate;

c. establishment of an ongoing immunization program;

d. approaches that ensure that any medical treatment administered will be explained to the client in language suitable to his/her age and understanding;

e. an ongoing relationship with a licensed physician and dentist to advise the provider concerning medical and dental care;

f. availability of a physician or fully equipped clinic on a 24-hour a day, seven-day a week basis;

g. provision for a dental examination as soon as practical after acceptance of the client for care and for treatment, including necessary prophylaxis, orthodontia, repairs and extractions when indicated, and for annual re-examinations; and

h. access to psychiatric and psychological resources, on both an emergency and ongoing basis, as appropriate to the needs of clients.

O. Medical Care

1. A provider shall arrange a general medical examination by a physician for each client within two weeks of admission unless the client has received such an examination within 30 days before admission and results of this examination are available to the provider. This examination shall include:

a. an examination of the client for physical injury and disease;

b. vision and hearing screening; and

c. a current assessment of the client's general health.

2. Each client taken into care should be immunized against common contagious diseases, including vaccination for smallpox and immunization against diphtheria, tetanus, poliomyelitis, whooping cough, measles and rubella.

3. Whenever indicated, the client shall be referred to an appropriate medical specialist for either further assessment or treatment, i.e., if indicated, neurological examination and psychiatric evaluation, and tuberculin test, including chest X-ray.

4. A provider must ensure that a client receives competent medical care in keeping with community standards of medical practice when he/she is ill. A physical examination shall be arranged when poor health is indicated.

5. When there has been insufficient time to prepare a client for placement, and if an adequate medical history can be obtained, the routine physical examination, as well as routine medical procedures, such as immunization, may be postponed.

P. Dental Services

1. A provider should have an organized system for providing comprehensive diagnostic dental services for all clients, which includes a complete extra- and intra-oral examination, utilizing all diagnostic aids necessary to properly evaluate the client's oral condition within a period of one month following admission, unless such an examination is in the client's case record.

2. A provider shall have access to comprehensive dental treatment services for all clients which include:

a. provision for dental treatment;

b. provision for emergency treatment on a 24-hour, seven-day-a-week basis by a qualified dentist;

c. a recall system that will assure that each client is re-examined at specified intervals in accordance with his/her needs, but at least annually.

3. A copy of the permanent dental record shall be provided to a provider when a client is transferred.

Q. Mental Health Services

1. A provider shall have access to the following services in accordance with the needs of clients:

a. psychological services;

b. psychiatric services; and

c. social work services.

2. A provider shall ensure that all providers of professional and special services:

a. provide services directly through personal contact with the client;

b. provide services indirectly through contact with staff members and others working with the client;

c. develop and record appropriate plans, goals and objectives for the client and, as appropriate, the client's family;

d. record all significant contacts with the client;

e. periodically provide written summaries of the client's response to the service, the client's current status

relative to the service, and the client's progress, to be maintained in the client's case record;

f. participate, as appropriate, in the development, implementation and review of service plans and aftercare plans and in the interdisciplinary team responsible for developing such plans;

g. provide services appropriately integrated into the overall program.

3. A provider shall ensure that any professional or special service provided by the provider has:

a. adequately qualified and, when appropriate, appropriately licensed or certified staff according to state or federal law;

b. adequate space and facilities;

c. appropriate equipment;

d. adequate supplies; and

e. appropriate resources.

4. A provider shall ensure that any professional or special service provided by a person or agency outside the provider meets all relevant requirements contained herein.

R. Psychological Services

1. A provider should provide psychological services, as appropriate, to the needs of the clientele, including strategies to maximize each client's development of perceptual skills, sensorimotor skills, self-help skills, communication skills, social skills, self-direction, emotional stability, effective use of time (including leisure time), and cognitive skills.

2. Psychologists providing services to the provider shall have at least a Master's degree from an accredited program and appropriate experience or training.

S. Psychiatric Services

1. The services of a psychiatrist should be available for diagnosis, consultation and treatment of clients with mental health needs.

2. Psychiatric consultation should be available to other staff members working with clients in developing a program that promotes mental health and in helping all appropriate staff members understand and use mental health concepts in working with clients and their families.

3. Use should be made of mental health services and client guidance facilities in the community, whenever they are available, for clients and parents.

T. Social Work Services

1. Social services as part of an interdisciplinary spectrum of services shall be provided to the clients through the use of social work methods directed toward:

a. maximizing the social functioning of each client;

b. enhancing the coping capacity of the client's family; and

c. asserting and safeguarding the human and civil rights of clients and their families and fostering the human dignity and personal worth of each client.

2. During the evaluation process, which may or may not lead to admission, social workers shall help the client and family to consider alternative services and make a responsible choice as to whether and when placement is indicated.

3. During the client's admission to and residence in the provider, or while the client is receiving services from the provider, social workers shall, as appropriate, provide liaison between the client, the provider, the family and the community in order to:

a. assist staff in understanding the needs of the client and his/her family in relation to each other;

b. assist staff in understanding social factors in the client's day-to-day behavior, including staff-client relationships;

c. assist staff in preparing the client for changes in his/her living situation;

d. help the family to develop constructive and personally meaningful ways to support the client's experience in the provider through counseling concerned with problems associated with changes in family structure and functioning and referral to specific services, as appropriate; and

e. help the family to participate in planning for the client's return to the home or other community placement.

4. After the client leaves the provider, the provider's social workers should provide systematic follow-up to assure referral to appropriate community providers, when possible.

U. Medications

1. A provider shall ensure that no medication is given to any client except in accordance with the written order of a physician.

2. There shall be no standing orders for prescription medications.

3. All orders for prescribed drugs shall terminate after a period not to exceed 90 days.

4. All orders for non-prescription drugs shall terminate after a period not to exceed one year.

5. The provider shall ensure that the prescribing physician is immediately informed of any side effects observed by staff or of any medication errors.

6. A provider supervising the self-administration of psychotropic medications shall have a written description of the use of psychotropic medications except when supervised directly by the prescribing certified clinical professional or his agent, i.e., clinical social worker.

7. A provider shall ensure that medications are either self-administered or administered by qualified persons according to state law.

8. A medication shall not be administered to any client for whom the medication has not been ordered.

9. Medications shall not be used as a disciplinary measure, a convenience for staff or as a substitute for adequate, appropriate programming.

10. All medications, prescription and non-prescription, should not be accessible to clients and should be administered by qualified persons according to state law.

V. Grievance Procedure for Clients

1. A provider should create a positive climate and opportunities for clients to make complaints without fear of retaliation.

2. The provider should make every effort to ensure that all clients and their legally responsible person are aware of and understand the grievance procedure.

W. Abuse and Neglect. A provider shall have comprehensive, written procedures concerning client abuse, including:

1. a description of ongoing communications strategies used by the provider to maintain staff awareness of abuse prevention, current definitions of abuse and neglect, current reporting requirements and applicable laws;

2. a procedure ensuring immediate reporting of any suspected incident to the chief administrator or his/her designee and mandating an initial written summary on the incident to the chief administrator or his/her designee within 24 hours;

3. a procedure for ensuring that the client is protected from potential harassment during the investigation; and

4. a procedure for disciplining staff members who abuse or neglect clients.

X. Reports on Critical Incidents

1. A provider shall require social service staff to report and document deaths of clients, injuries, fights or physical confrontations, situations requiring the use of passive physical restraints, suspected incidents of abuse or neglect, unusual incidents and other situations or circumstances affecting the health, safety or well-being of a client or clients.

2. Such procedures shall ensure verbal and written reports to the chief administrator.

3. When an incident involves abuse or neglect of a client, death of a client, or entails any serious threat to the client's health, safety or well-being, a provider shall:

a. ensure immediate verbal reporting to the chief administrator or his/her designee and a preliminary written report within 24 hours of the incident;

b. ensure immediate notification of representatives of DSS and other appropriate authorities, according to state law;

c. ensure immediate, documented attempts to notify the legally responsible person of the client;

d. ensure immediate attempts to notify other involved agencies and parties, as appropriate; and,

e. ensure follow-up written reports to all appropriate persons and agencies.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:477 and R.S. 46:1410 et seq.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of the Secretary, Bureau of Licensing, LR 27:1571 (September 2001), repromulgated by the Department of Social Services, Office of the Secretary, Bureau of Residential Licensing, LR 33:2746 (December 2007), repromulgated by the Department of Social Services, Office of Community Services, LR 35:1623 (August 2009).

§6965. Direct Service Management

NOTE: This Section has been moved from LAC 67:I.1965.

A. Admission Policies

1. A provider shall have a written description of admission policies and criteria which shall include the following information:

a. the age and sex of clients in care;

b. the needs, problems, situations or patterns best addressed by the provider's program;

c. any other criterion for admission;

d. criteria for discharge;

e. any preplacement requirements on the client, the legally responsible person, DSS, or other involved agencies;

f. procedures for ensuring that placement within the program is the least restrictive alternative appropriate to meet the client's needs.

2. The provider shall, when applicable, have policies and procedures governing self-admission. Such policies and procedures shall include procedures for notification, as appropriate, of the legally responsible person.

3. A provider shall not refuse admission to any client on the grounds of race or ethnic origin.

4. A provider shall not admit more clients into care than the number specified on the provider's license.

5. A provider shall not accept any client for placement whose needs cannot be adequately met by the provider's program.

6. A provider shall ensure that the client; the legally responsible person, when appropriate; and others, as appropriate, are provided reasonable opportunity to participate in the admission process and decisions. Proper consents shall be obtained before admission.

7. When such involvement of the legally responsible person is not possible or not desirable, the reasons for their exclusion shall be recorded in the admission study.

B. Intake Evaluation

1. The provider shall accept a client into care only when a current comprehensive intake evaluation has been completed, including health and family history and medical, social, psychological and, as appropriate, developmental or vocational or educational assessment.

2. In emergency situations necessitating immediate placement into care, the provider shall:

a. gather as much information as possible about the client to be admitted and the circumstances requiring placement;

b. formalize this in an "emergency admission note" within two days of admission; and,

c. proceed with an intake evaluation as quickly as possible. The intake evaluation shall be completed within 30 days of admission.

C. Clarification of Expectations to Client. The provider shall, consistent with the client's maturity and ability to understand, make clear its expectations and requirements for behavior and provide the client referred for placement with an explanation of the provider's criteria for successful participation in and completion of the program.

D. Placement Agreement

1. The provider shall ensure that a written placement agreement is completed. A copy of the placement agreement, signed by all parties involved in its formulation, shall be kept in client's record.

2. A provider shall not admit any client into care whose presence will be seriously damaging to the ongoing functioning of the provider or to clients already in care.

3. The placement agreement should be developed with the involvement of the client and the legally responsible person. The placement agreement shall include, by reference or attachment, at least the following:

a. discussion of the client's and the family's expectations regarding family contact and involvement;

b. nature and goals of care, including any specialized services to be provided;

c. religious orientation and practices of the client;

d. anticipated discharge date and aftercare plan;

e. delineation of the respective roles and responsibilities of all agencies and persons involved with the client and his/her family;

f. authorization to care for the client;

g. authorization to obtain medical care for the client;

h. arrangements regarding visits, vacation, mail, gifts and telephone calls;

i. arrangements as to the nature and frequency of reports to and meetings involving the legally responsible person and referring agency;

j. provision for notification of the legally responsible person in the event of unauthorized absence, illness, accident or any other significant event regarding the client.

4. The provider shall ensure that each client upon placement is checked for illness, fever, rashes, bruises and injury. The client shall be asked if he/she has any physical complaints. The results of this procedure shall be documented and kept in the client's record.

5. The provider shall assign a staff member to orient the client and, where available, the family to life at the provider.

E. Discharge and After Care

1. Prior to planned discharge of a client, the provider's staff should formulate an aftercare plan discussing the supports and resources to be provided to the client and the legally responsible person.

a. Prior to discharge, the provider's staff should ensure that the client is aware of and understands his/her aftercare plan.

b. When a client is being placed in another program following discharge, representatives of the staff shall confer with representatives of that program prior to the client's discharge to share information concerning the client.

2. The provider shall have a written policy concerning unplanned discharge. This policy shall ensure that emergency discharges initiated by the provider take place only when the health and safety of a client or other clients might be endangered by the client's further placement at the agency.

a. The provider shall give immediate notice of unplanned discharge to the legally responsible person and shall promptly notify appropriate education authorities.

b. When arranging for placement following an emergency discharge, a provider shall consult with the receiving provider to ensure that the client is placed in a program that reasonably meets the client's needs, if possible.

c. The provider shall have a written report detailing the circumstances leading to each unplanned discharge.

3. Within 30 days of discharge of a client, a provider shall compile a written discharge summary to be included in the client's record. When the client is discharged to another agency, this summary should accompany the client. This summary should include:

a. name and home address of the client and, when appropriate, the legally responsible person;

b. name, address, telephone number of the provider;

c. summary of services provided during care;

d. summary of growth and accomplishments during care;

e. assessed needs which remain to be met, and alternate service possibilities which might meet those needs; and

f. statement of an aftercare plan and identification of who is responsible for follow-up services and aftercare.

F. Individual Service Planning

1. A provider shall ensure that a direct service staff who is an appropriately qualified professional is assigned to each client and given responsibility for and authority over:

a. supervision of the implementation of the client's service plan;

b. integration of the various aspects of the client's program;

c. recording of the client's progress as measured by objective indicators;

d. reviewing the client's service plan on a quarterly basis; and

e. monitoring any extraordinary restriction of the client's freedom, including use of any form of restraint, any special restriction on a client's communication with others and any potentially harmful treatment or behavior management technique applied to the client.

2. Service Plan

a. A provider shall, within 30 days of admitting a client, ensure that a comprehensive written psychological, social and, as appropriate, educational assessment of the client has been completed and, on the basis of this assessment, shall develop a comprehensive, time-limited, goal-oriented individual service plan addressing the needs identified by the assessment.

b. Unless it is clearly not feasible to do so, a provider shall ensure that the service plan and any subsequent revisions are explained to the client and, where appropriate, the legally responsible person in language understandable to these persons.

c. The social service staff shall review each plan at least annually and shall evaluate the degree to which the goals have been achieved.

d. The social service worker shall prepare quarterly status reports on the progress of the client relative to the goals and objectives of the service plan. These reports shall be prepared by designated staff and reviewed and approved.

e. A social service worker shall ensure that all persons working directly with the client are appropriately informed of the service plan.

3. Education

a. A provider should ensure that each client has access to appropriate educational services consistent with the client's abilities and needs, taking into account his/her age and level of functioning.

b. All clients of school age must either be enrolled in a school system or a program approved by the Department of Education.

G. Arrangement of Clients into Groups. A provider should conscientiously consider the manner in which clients are arranged into groups within the provider, and document that this manner of arranging clients into groups effectively addresses the needs of clients. This statement should be in accordance with the following guidelines.

1. All clients must have privacy and a place to go for periods of relative quiet and inactivity.

2. All clients must have an opportunity to build relationships within small groups.

3. Clients must have an opportunity to form relationships with a consistent group of direct service staff.

H. Behavior Management

1. Clients should be given opportunities to learn gradually to assume responsibilities and make decisions for phases of daily living that they are able to carry out by themselves. They should have the assistance and guidance of workers whom they trust and respect, and with whom they have a positive relationship, while learning self-control and self-direction in a widening sphere of daily life.

a. Discipline is the educational process by which professionals help a client have the experiences that enable the client to learn to live in reasonable conformity with accepted standards of social behavior and to do so by progressively acquiring and applying self-control rather than relying on external pressures.

b. Every provider should develop policies and procedures to govern all disciplinary actions. Staff should be fully aware of these policies and their implications through staff development and written materials.

c. Each client should know the basic rules that include not hurting others, not destroying things and not disrupting ongoing activities.

d. Good discipline involves being clear and specific as to limits on behavior, showing the client what is permitted and what is not, and giving feedback on actions that are right or wrong.

e. Responsibility for discipline should be given to the worker who takes care of the clients and supervises their daily activities.

2. Punishment

a. Punishment should be used only in situations where other means are ineffective and when clients can benefit from the experience of facing the consequences of unacceptable behavior not as an end in itself, but as a part of a learning process.

b. Punishment is one form of intervention by the staff in situations in which the client fails to behave as expected or required, or fails to maintain self-control. The staff should have clear reasons for choosing punishment. It is usually more effective to offer an intervention activity that can be positively enforced rather than an intervention that could prove to be a negative reinforcement to a client.

c. Timing or any punishment should be related to the occurrence of the offense and should not extend over so long a period that it loses meaning for the client.

d. Group punishment for misbehavior of one or more members is not desirable. It can have the negative long-range effect of embittering the clients who are unfairly punished and may disturb group cohesiveness. The group may become hostile to the individual client who may feel alone and rejected by them. The group may also direct its hostility to the staff member. Humiliating or degrading punishment, which undermines the client's respect (including ridicule, sarcasm, shaming, scolding or punishment in the presence of the group or another staff member), should be avoided.

i. Corporal punishment, including slapping, spanking, paddling, belting, hitting or forcing the client to march, stand or kneel rigidly in one spot, or causing any kind of physical discomfort, shall not be used other than when approved by the client's parent or guardian in writing. All state laws must be followed when approved corporal punishment is administered.

ii. Physical restraint of a client by a worker is at times necessary for the protection of the client or others.

3. Misbehavior

a. To be effective, worker intervention should be determined by an understanding of the particular client, the immediate situation, the particular living group of the client, the client's capacity at the time to learn from the experience and the treatment plan.

b. Some situations require purposeful non-interference, i.e., nothing should be done. Others call for active intervention, such as reasoning and discussion of the incident, changing the situation, disapproval, physical restraint or punishment.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:477 and R.S. 46:1410 et seq.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of the Secretary, Bureau of Licensing, LR 27:1575 (September 2001), repromulgated by the Department of Social Services, Office of the Secretary, Bureau of Residential Licensing, LR 33:2750 (December 2007), repromulgated by the Department of Social Services, Office of Community Services, LR 35:1628 (August 2009).

§6966. Criminal Background Checks

A. Criminal Background Checks—Current Owners as of June 1, 2020

1. Effective June 1, 2020 and in accordance with public law 115-123 and R.S. 1587.1, provider shall submit a request for a fingerprint-based criminal background check through the Federal Bureau of Investigation (FBI) for all owners/operators. The request for the FBI check shall be submitted no later than June 12, 2020. Documentation of submission shall be available for review and submitted upon request of the Licensing Section.

2. Upon notification that the owner/operator has been convicted of a crime listed in R.S.15:587.1, the owner/operator shall no longer be eligible to own, operate, or participate in the governance or management of the residential home. The owner/operator can voluntarily close the business or if he/she chooses not to close the business, the license shall be immediately revoked. If the owner/operator is a member of the board or clergy, the provider shall submit a signed, dated statement to Licensing within 24 hours or no later than the next business day after the notification has been made indicating that the individual has resigned or been relieved of his position with the effective date of the resignation/removal. If the statement is not received within the aforementioned timeframe, the license shall be immediately revoked. Provider shall also submit documentation to Licensing within seven calendar days of the notification being made verifying that the individual’s name has been removed from the Secretary of State’s website if owned by a corporation.

3. Upon notification that additional information is required in order to make a decision, the provider has seven calendar days to submit the requested information to the requesting agency. Documentation of the date the requesting agency requested additional information shall be available for review. If the information is not submitted as requested within seven calendar days, the owner/operator shall not be present at the agency. However, if the information is not submitted within 30 calendar days, owner/operator can voluntarily close the business or if he/she chooses not to close the business, the license shall be immediately revoked. If the owner/operator is a member of the board or clergy, the provider shall submit a signed, dated statement to Licensing within 24 hours or no later than the next business day after the thirtieth day indicating that the individual has resigned or been relieved of his position with the effective date of the resignation/removal. If the statement is not received within the aforementioned timeframe, the license shall be immediately revoked. Provider shall also submit documentation to Licensing within seven calendar days after the thirtieth day verifying that the individual’s name has been removed from the Secretary of State’s website if owned by a corporation.

4. This check shall be obtained prior to the addition of a board member who meets the definition of an owner, an individual being present on the premises, or an individual having access to residents and/or children of residents.

5. No person shall own, operate, or participate in the management or governance of a residential home until such person has submitted his or her fingerprints through the FBI and it has been determined that such person has not been convicted of, or pled guilty or *nolo contendere* to any crime listed in R.S. 15:587.1(C).

6. Any owner or operator who is convicted of, or pled guilty or *nolo contendere* to any crime listed in R.S. 15:587.1(C) shall not continue in the management or governance after such conviction, guilty plea, or plea of *nolo contendere*.

7. The following is a listing of individuals by organizational type who are required to submit documentation to Licensing of a satisfactory fingerprint-based criminal background clearance conducted through the FBI:

a. *Individual Ownership*—individual and spouse listed on the licensing application submitted and who have access to the residents and/or children of residents in care of the provider and/or residents and/or children of residents who receive services from the provider and/or who are present at any time on the facility premises when residents and/or children of residents are present;

b. *Partnership*—all limited or general partners and managers who are listed on the licensing application submitted and who have access to the residents and/or children of residents in care of the provider and/or residents and/or children of residents who receive services from the provider, and/or who are present at any time on the facility premises when residents and/or children of residents are present;

c. *Church Owned, University Owned* or *Governmental Entity*—any clergy and/or board member who is listed on the licensing application submitted and who has access to the residents and/or children of residents in care of the provider, and/or residents and/or children of residents who receive services from the provider, and/or who is present at any time on the facility premises when residents and/or children of residents are present; or

d. *Corporation* (includes limited liability companies)—individual(s) who is registered as an officer of the board with the Louisiana Secretary of State and/or listed on the licensing application submitted and who has access to the residents and/or children of residents in care of the provider, and/or residents and/or children of residents who receive services from the provider, and/or who is present at any time on the facility premises when residents and/or children of residents are present.

8. When an individual is listed on the licensing application or the Secretary of State's website as an officer and does not have access to residents and/or children of residents in care or who receive services from the provider and/or is not present at any time on the facility premises when residents and/or children of residents are present, a DCFS approved attestation form signed and dated by the individual is acceptable in lieu of a satisfactory fingerprint-based CBC through the FBI. The attestation form shall be accepted for a period of one year from the date individual signed the attestation form.

9. Criminal background clearances are not transferable between owners.

B. Criminal Background Checks—Prospective Owners effective June 1, 2020

1. Effective June 1, 2020 and in accordance with public law 115-123 and R.S. 15:587.1, documentation of a satisfactory fingerprint-based criminal background check through the Federal Bureau of Investigation (FBI) for all owners/operators is required prior to the date the initial license is issued. The satisfactory criminal record check shall be dated prior to the issuance of the license, but no earlier than 45 days prior to the initial application being received by the Licensing Section. Documentation of a satisfactory fingerprint-based FBI check shall be available for review.

2. This check shall be obtained prior to the license being issued, the addition of a board member who meets the definition of an owner, an individual being present on the premises, or an individual having access to residents and/or children of residents.

3. No person shall own, operate, or participate in the management or governance of a residential home until such person has submitted his or her fingerprints through the FBI and it has been determined that such person has not been convicted of, or pled guilty or *nolo contendere* to any crime listed in R.S. 15:587.1(C).

4. Any owner or operator who is convicted of, or pled guilty or *nolo contendere* to any crime listed in R.S. 15:587.1(C) shall not continue in the management or governance after such conviction, guilty plea, or plea of *nolo contendere*.

5. The following is a listing of individuals by organizational type who are required to submit documentation to Licensing of a satisfactory fingerprint-based criminal background clearance through the FBI:

a. *Individual Ownership*—individual and spouse listed on the licensing application submitted and who have access to the residents and/or children of residents in care of the provider and/or residents and/or children of residents who receive services from the provider and/or who are present at any time on the facility premises when residents and/or children of residents are present;

b. *Partnership*—all limited or general partners and managers who are listed on the licensing application submitted and who have access to the residents and/or children of residents in care of the provider and/or residents and/or children of residents who receive services from the provider, and/or who are present at any time on the facility premises when residents and/or children of residents are present;

c. *Church Owned, University Owned* or *Governmental Entity*—any clergy and/or board member who is listed on the licensing application submitted and who has access to the residents and/or children of residents in care of the provider, and/or residents and/or children of residents who receive services from the provider, and/or who is present at any time on the facility premises when residents and/or children of residents are present; or

d. *Corporation* (includes limited liability companies)—individual(s) who is registered as an officer of the board with the Louisiana Secretary of State and/or listed on the licensing application submitted and who has access to the residents and/or children of residents in care of the provider, and/or residents and/or children of residents who receive services from the provider, and/or who is present at any time on the facility premises when residents and/or children of residents are present.

6. When an individual is listed on the licensing application or the Secretary of State's website as an officer and does not have access to residents and/or children of residents in care or who receive services from the provider and/or is not present at any time on the facility premises when residents and/or children of residents are present, a DCFS approved attestation form signed and dated by the individual is acceptable in lieu of a satisfactory fingerprint-based CBC through the FBI. The attestation form shall be accepted for a period of one year from the date individual signed attestation form.

7. CBCs/attestation forms shall be dated prior to the initial license being issued, but no earlier than 45 days prior to the initial application being received by the Licensing Section.

8. Criminal background clearances are not transferable between owners.

C. Criminal Background Checks for Current Staff and Volunteers as of June 1, 2020

1. Effective June 1, 2020, and in accordance with public law 115-123 and R.S. 15:587.1, provider shall submit a request for a fingerprint-based criminal background check through the Federal Bureau of Investigation (FBI) for all currently employed staff (paid and non-paid staff and volunteers). The request shall be submitted to the FBI no later than June 12, 2020. Documentation of submission shall be available for review and submitted upon request of the Licensing section.

2. Upon notification that the staff person has been convicted of a crime listed in R.S.15:587.1, the individual shall no longer be eligible for employment or able to provide services for the provider. The provider shall submit a signed, dated statement to Licensing within 24 hours or no later than the next business day after notification has been made indicating that the staff has been terminated or individual will no longer be providing services. If this statement is not received by Licensing within the aforementioned timeframe, the license shall be immediately revoked.

3. Upon notification that additional information is required in order to make a decision, the provider has seven calendar days to submit the requested information to the requesting agency. Documentation of the date the requesting agency requested additional information shall be available for review. If the information is not submitted as requested within seven calendar days, the individual is ineligible to return to work or provide services. The provider shall submit a signed, dated statement to Licensing within 24 hours or no later than the next business day after the seventh day indicating that the individual has been suspended or no longer providing services. However, if the information is not submitted within 30 calendar days, the individual shall be terminated or no longer eligible to provide services for the provider. If the information is not submitted before the thirty-first calendar day following the request for information, the individual shall be terminated or no longer eligible to provide services for the provider. The provider shall submit a signed, dated statement to Licensing within 24 hours or no later than the next business day after the thirtieth day indicating that the individual has been relieved of his position with the effective date of the termination/removal. If the statement is not received within the aforementioned timeframe, the license shall be immediately revoked.

4. No person who has been convicted of, or pled guilty or *nolo contendere* to any offense included in R.S. 15:587.1, shall be present in any capacity in the facility.

5. CBC shall be dated no earlier than 45 days of the individual being present in the facility or having access to the residents and/or children of residents.

6. Criminal background clearances are not transferable between owners.

D. Criminal Background Checks for Prospective Staff and Volunteers effective June 1, 2020

1. Effective June 1, 2020 and in accordance with public law 115-123 and R.S. 15:587.1, documentation of a satisfactory criminal background check through the Federal Bureau of Investigation (FBI) is required prior to the individual (paid and non-paid staff and volunteers) being present in the facility or having access to residents and/or children of residents. No person who has been convicted of, or pled guilty or *nolo contendere* to any offense included in R.S. 15:587.1 shall be hired by or present in any capacity in the facility.

2. Criminal background checks (CBC) through the Federal Bureau of Investigation (FBI) shall be dated no earlier than 45 days of the individual being present in the facility or having access to the residents and/or children of residents.

3. No person who has been convicted of, or pled guilty or *nolo contendere* to any offense included in R.S. 15:587.1, shall be hired by or present in any capacity in the facility.

4. No person who is convicted of or has pled *nolo contendere* to any crime listed in R.S. 15:587.1(C) shall continue employment or to provide services after such conviction or *nolo contendere* plea.

5. Criminal background clearances are not transferable between owners.

E. Criminal Background Checks for Current Contractors as of June 1, 2020

1. Effective June 1, 2020 and in accordance with public law 115-123 and R.S. 1587.1, provider shall submit a

request for a criminal background check through the Federal Bureau of Investigation (FBI) for all current contractors. The request shall be submitted to the FBI no later than June 12, 2020. Documentation of submission shall be available for review and submitted upon request of the Licensing section.

2. Upon notification that the contractor has been convicted of a crime listed in R.S.15.587.1, the individual shall no longer be eligible to provide services for the provider. The provider shall submit a signed, dated statement to Licensing within 24 hours or no later than the next business day after notification has been made indicating that the contract has been terminated and the individual is no longer allowed access to the residents and/or children of residents. If this statement is not received by Licensing within the aforementioned timeframe, the license shall be immediately revoked.

3. Upon notification that additional information is required in order to make a decision, the provider has seven calendar days to submit the requested information to the requesting agency. Documentation of the date the requesting agency requested additional information shall be available for review. If the information is not submitted as requested within seven calendar days, the individual is ineligible to return to work or provide services. The provider shall submit a signed, dated statement to Licensing within 24 hours or no later than the next business day after the seventh day indicating that the individual has been suspended or no longer providing services. However, if the information is not submitted within 30 calendar days, the individual shall be terminated or no longer eligible to provide services for the provider. If the information is not submitted before the thirty-first calendar day following the request for information, the individual shall be terminated or no longer eligible to provide services for the provider. The provide shall submit a signed, dated statement to Licensing within 24 hours or no later than the next business day after the thirtieth day indicating that the individual has been relieved of his position with the effective date of the termination/removal. If the statement is not received within the aforementioned timeframe, the license shall be immediately revoked.

4. A person shall not be deemed a contractor if he/she is a staff person of the facility.

5. No person who has been convicted of, or pled guilty or *nolo contendere* to any offense included in R.S. 15:587.1, shall be present in any capacity in the facility.

6. Criminal background checks are not transferable between owners.

F. Criminal Background Checks for Prospective Contractors effective June 1, 2020

1. Contractors hired to perform work which involves contact with residents and/or children of residents, shall be required to have documentation of a satisfactory fingerprint-based criminal background check through the Federal Bureau of Investigation (FBI) as required by R.S. 15:587.1 and R.S. 46:51.2. This check shall be obtained prior to the individual being present in the facility or having access to the residents and/or children of residents.

2. No person who has been convicted of, or pled guilty or *nolo contendere* to any offense included in R.S. 15:587.1, shall be hired by or present in any capacity in the facility.

3. This check shall be obtained prior to the individual being present in the facility or having access to the residents and/or children of residents.

4. Criminal background checks (CBC) shall be dated no earlier than 45 days of the individual being present in the facility or having access to the residents and/or children of residents.

5. A person shall not be deemed a contractor if he/she is a staff person of the facility.

6. Criminal background checks are not transferable between owners.

G. Criminal Background Checks for Louisiana Department of Education (LDE) Staff effective June 1, 2020

1. Effective June 1, 2020, provider shall provide documentation that a fingerprint-based satisfactory criminal background check (CBC) through the Federal Bureau of Investigation (FBI) as required by R.S. 15:587.1 and R.S. 17:15 for all Louisiana Department of Education staff or local school district staff that interact with children/youth prior to the individual providing services to children/youth has been conducted. This check shall be obtained prior to the individual being present in the facility or providing services for the facility. No person who has been convicted of, or pled guilty or *nolo contendere* to any offense included in R.S. 15:587.1, shall be present in any capacity in any licensed facility.

a. For the first school year that a LDE staff person or local school district staff person provides services to a child or children, that LDE staff person or local school district staff person shall provide documentation of a fingerprint-based satisfactory criminal record clearance through the Federal Bureau of Investigation (FBI) as required by R.S.15:587.1 and R.S. 17:15 or shall provide the original, completed, signed, notarized, DCFS-approved affidavit dated June 1, 2020 or after to the provider prior to being present and working with a child or children at the facility. A photocopy of the original affidavit shall be kept on file at the facility. This affidavit will be acceptable for the entire school year noted in the text of the affidavit and expires on May 31 of the current school year. For all subsequent school years following the first year, the LDE staff or local school district staff person shall present a new affidavit or an original, completed, and signed letter from the superintendent of the school district or designee or superintendent of LDE or designee noting that the individual continues to meet certain specific requirements. The provider will need to view the original letter presented by the LDE staff or local school district staff person and keep a photocopy of the original letter on file at the facility. This letter will be acceptable for the entire school year noted in

the text of the letter and expires on May 31 of the current school year. The letter is acceptable only if all the following conditions are met:

i. the LDE staff person or local school district staff person has remained employed with the same school district as noted in the affidavit the provider has on file;

ii. the provider has maintained a copy of the affidavit on file; and

iii. the letter is presented on school district letterhead or LDE letterhead and signed by the superintendent of the school district or designee or superintendent of LDE or designee;

iv. the letter notes the following:

(a). individual is an employee and/or representative of the school district for the _____ ex. (2020-2021) school year and is not employed or contracted on an emergency basis nor pursuant to written approval of any district judge or district attorney under to R.S. 17:15(A). As a prerequisite of employment and/or representative status, he/she underwent a criminal background check as required by R.S. 17:15 and R.S. 15:587.1.

(b). the superintendent or designee certifies that, according to that criminal background check, he/she has not been convicted of, or pled guilty or *nolo contendere* to, any of the criminal offenses set forth in R.S. 17:15 and/or R.S.15:587.1(C).

(c). the superintendent or designee certifies that he/she will notify the Director of DCFS Licensing in writing if superintendent/designee becomes aware that the individual is convicted of an offense enumerated in R.S. 17:15 and/or 15:587.1(C) during the school year which nullifies the affidavit and/or letter.

2. No person who has been convicted of, or pled guilty or *nolo contendere* to any offense included in R.S. 15:587.1, shall be hired by or present in any capacity in the facility.

3. Criminal background clearances are not transferable between owners.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:587.1.

HISTORICAL NOTE: Promulgated by the Department of Children and Family Services, Licensing Section, LR 46:689 (May 2020), effective June 1, 2020.

§6967. Physical Environment

NOTE: This Section has been moved from LAC 67:I.1967.

A. Accessibility. A provider's building, parking lots and facilities shall be accessible to and functional for clients, staff members and the public, as required by applicable federal and state laws and regulations.

B. Exterior Space

1. A provider shall ensure that all structures on the grounds of the facility accessible to clients are maintained in good repair and are free from any excessive hazard to health or safety.

2. A provider shall maintain the grounds of the facility in an acceptable manner and shall ensure that the grounds are free from any hazard to health or safety.

a. Garbage and rubbish that is stored outside shall be stored securely in non-combustible, covered containers and shall be removed on a regular basis.

b. Trash collection receptacles and incinerators shall be stored separate from the play area, and be located as to avoid being a nuisance to neighbors.

c. Fences shall be in good repair.

d. Areas determined to be unsafe, including steep grades, cliffs, open pits, swimming pools, high voltage boosters or high-speed roads, shall be fenced off or have natural barriers to protect clients.

e. Playground equipment shall be so located, installed and maintained as to ensure the safety of clients.

3. A provider shall have access to outdoor recreational space and suitable recreational equipment.

C. Interior Space

1. Each living unit of a provider should contain a space for the free and informal use of clients. This space shall be constructed and equipped in a manner consistent with the programmatic goals of the provider.

2. A provider shall provide an appropriate variety of interior recreational spaces.

3. A provider shall ensure the immediate accessibility of appropriate first aid supplies in the living units.

4. Dining Areas

a. A provider shall provide dining areas which permit clients, staff and, as appropriate, guests to eat together in small groups.

b. A provider shall provide dining areas which are clean, well-lighted, ventilated and attractively furnished.

5. Sleeping Accommodations

a. A provider should ensure that each client has a safe and comfortable bedroom space appropriate to age, mental health and supervision requirements. Floor space should provide appropriate freedom of movement. In evaluating bedroom floor space, easy access to large adjoining areas should be considered.

b. A provider shall not use a room with a ceiling height of less than 7 feet as a bedroom space, except in a room with varying ceiling height in which the portions of the room where the ceiling is at least 7 feet allow a useable space.

c. A provider should not permit more than four clients to occupy a designated bedroom space, unless necessitated by supervision requirements.

d. No client over the age of five years shall occupy a bedroom with a member of the opposite sex, unless the persons occupying the bedroom are a married couple, or properly documented medical reasons require it.

e. A provider shall not use any room which does not have a window as a bedroom space.

f. Each client in care of a provider shall have his/her own bed. A client's bed shall be no shorter than the client's height and no less than 30 inches wide, and shall have a clean, comfortable, non-toxic, fire-retardant mattress.

g. A provider shall ensure that sheets, a pillow, a bedspread and blankets are provided for each client.

i. Enuretic clients shall have mattresses with moisture-resistant covers.

ii. Sheets and pillowcases shall be changed at least weekly, but shall be changed more frequently if necessary.

h. A provider shall provide clients with solidly constructed beds. Cots or other portable beds are not to be used on a routine basis.

i. A provider shall ensure that the uppermost mattress of any bunk bed in use shall be far enough from the ceiling to allow the occupant to sit up in bed.

j. A provider shall provide each client in care with his/her own dresser or other adequate storage space for private use, and designated space for hanging clothing in proximity to the bedroom occupied by the client.

k. Each client in care of a provider shall have his/her own designated area for rest and sleep.

l. The decoration of sleeping areas for clients shall allow some scope for the personal tastes and expressions of the clients.

6. Bathrooms

a. A provider shall have an adequate number of washbasins with hot and cold water, flush toilets and bath or shower facilities with hot and cold water, according to client care needs.

i. Bathrooms shall be so placed as to allow access without disturbing other clients during sleeping hours.

ii. Each bathroom shall be properly equipped with toilet paper, towels, soap and other items required for personal hygiene, unless clients are individually given such items.

iii. Tubs and showers shall have slip-proof surfaces.

b. A provider shall provide toilets and baths or showers which allow for individual privacy, unless clients in care require assistance.

c. A provider shall ensure that bathrooms have a safe and adequate supply of hot and cold running water. This water shall be potable.

d. A provider shall ensure that bathrooms contain mirrors secured to the walls at convenient heights, and other furnishings necessary to meet the clients' basic hygienic needs.

e. A provider shall ensure that bathrooms are equipped to facilitate maximum self-help by clients. Bathrooms shall be large enough to permit staff assistance of children if necessary.

f. Toilets, washbasins and other plumbing or sanitary facilities in a facility shall at all times be maintained in good operating condition, and shall be kept free of any materials that might clog or otherwise impair their operation.

7. Kitchens

a. Kitchens used for meal preparations shall be provided with the necessary equipment for the preparation, storage, serving and cleanup of all meals for all the clients and staff regularly served by such kitchen. All equipment shall be maintained in working order.

b. A provider shall not use disposable dinnerware at meals on a regular basis, unless the facility documents that such dinnerware is necessary to protect the health or safety of clients in care.

c. A provider shall ensure that all dishes, cups and glasses used by clients in care are free from chips, cracks or other defects.

8. Staff Quarters. A provider utilizing live-in staff shall provide adequate, separate living space with private bathroom for these staff.

9. Administrative and Counseling Space

a. A provider shall provide a space that is distinct from the clients' living areas to serve as an administrative office for records, secretarial work and bookkeeping.

b. A provider shall have a designated space to allow private discussions and counseling sessions between individual clients and staff.

10. Furnishings

a. A provider shall have comfortable, customary furniture as appropriate for all living areas. Furniture for the use of clients shall be appropriately designed to suit the size and capabilities of these clients.

b. A provider shall ensure that there is evidence of routine maintenance and cleaning programs in all areas of the provider.

c. A provider shall replace or repair broken, run-down or defective furnishings and equipment promptly.

11. Doors and Windows

a. A provider shall ensure that any designated bedroom in which the bedroom space is not equipped with a

mechanical ventilation system is provided with windows that have an openable area at least 5 percent as large as the total floor area of the bedroom space.

b. A provider shall provide insect screening for all opened windows. This screening shall be readily removable in emergencies and shall be in good repair.

c. A provider shall ensure that all closets used by clients, and bedrooms and bathrooms which have doors, are provided with doors that can be readily opened from both sides.

12. Storage

a. A provider shall ensure that there are sufficient and appropriate storage facilities.

b. A provider shall have securely locked storage space for all potentially harmful materials. Keys to such storage spaces shall only be available to authorized staff members.

13. Electrical Systems

a. A provider shall ensure that all electrical equipment, wiring, switches, sockets and outlets are maintained in good order and safe condition.

b. A provider shall ensure that any room, corridor or stairway within a facility is sufficiently illuminated.

c. A provider shall provide adequate lighting of exterior areas to ensure the safety of clients and staff during the night.

14. Heat

a. A provider shall take all reasonable precautions to ensure the heating elements, including exposed hot water pipes, are insulated or installed in a manner that ensures the safety of clients.

b. A provider shall maintain the spaces used by clients at reasonable temperatures.

c. A provider shall not use open flame heating equipment.

15. Water. A provider shall ensure that hot water accessible to clients is regulated to a temperature not in excess of 110 degrees F., unless a variance is granted.

16. Finishes and Surfaces

a. A provider shall not utilize any excessively rough surface or finish where this surface or finish may present a safety hazard to clients.

b. A provider shall not have walls or ceilings surfaced with materials containing asbestos.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:477 and R.S. 46:1410 et seq.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of the Secretary, Bureau of Licensing, LR 27:1577 (September 2001), repromulgated by the Department of Social Services, Office of the Secretary, Bureau of Residential Licensing, LR 33:2753 (December 2007), repromulgated by the Department of Social Services, Office of Community Services, LR 35:1630 (August 2009).

§6969. Emergency and Safety

NOTE: This Section has been moved from LAC 67:I.1969.

A. Emergency and Safety Plan

1. A provider should have a plan for emergency and safety procedures.

2. The plan should provide for the evacuation of clients to safe or sheltered areas.

3. The plan should include provisions for training of staff and, as appropriate, clients in preventing, reporting and responding to fires and other emergencies.

4. The plan should provide means for an ongoing safety program including continuous inspection of the provider for possible hazards, continuous monitoring of safety equipment and investigation of all accidents or emergencies.

B. Emergency Drills

1. A provider shall conduct emergency drills at least once every three months and at varying times of the day.

2. A provider shall make every effort to ensure that staff and clients recognize the nature and importance of such drills.

C. Access to Emergency Services

1. A provider shall have access to 24-hour telephone service.

2. The provider shall either have posted telephone numbers of emergency services, including fire department, police, medical services, poison control and ambulance, or be able to show evidence of an alternate means of immediate access to these services.

D. General Safety Practices

1. A provider shall not maintain any firearm or chemical weapon in the living units of the facility.

2. A provider shall ensure that all poisonous, toxic and flammable materials are safely stored in appropriate containers labeled as to contents. Such materials shall be maintained only as necessary and shall be used in such a manner as to ensure the safety of clients, staff and visitors.

3. A provider should ensure that an appropriately equipped first-aid kit is available in the provider's building.

4. Every required exit, exit access and exit discharge in a provider's building shall be continuously maintained free of all obstructions or impediments to immediate use in the case of fire or other emergency.

5. A provider shall prohibit the use of candles in sleeping areas of the clients.

6. Power-driven equipment used by a provider shall be kept in safe and good repair. Such equipment shall be used by clients only under the direct supervision of a staff member and according to state law.

7. A provider shall have procedures to prevent insect and rodent infestation.

E. Transportation

1. The provider shall ensure that each client is provided with the transportation necessary for implementing the client's service plan.

2. The provider shall have means of transporting clients in case of emergency.

3. Any vehicle used in transporting clients in care of the provider, whether such vehicle is operated by a staff member of any other person acting on behalf of the provider, shall be properly licensed and inspected in accordance with state law.

4. The provider shall not allow the number of persons in any vehicle used to transport clients to exceed the number of available seats in the vehicle.

5. All vehicles used for the transportation of clients shall be maintained in a safe condition and be in conformity with all applicable motor vehicle laws.

6. Identification of vehicles used to transport clients in care of a provider shall not be of such nature to embarrass or in any way produce notoriety for clients.

7. The provider shall ascertain the nature of any need or problem of a client which might cause difficulties during transportation, such as seizures, a tendency towards motion sickness or a disability. The provider shall communicate such information to the operator of any vehicle transporting clients in care.

8. The following additional arrangements are required in all vehicles except automobiles for a provider serving handicapped, non-ambulatory clients.

a. A ramp device to permit entry and exit of a client from the vehicle must be provided for all vehicles that are normally used to transport physically handicapped clients. A mechanical lift may be utilized, provided that a ramp is also available in case of emergency.

b. Wheelchairs used in transit shall be securely fastened to the vehicle.

c. The arrangement of the wheelchairs shall provide an adequate aisle space and shall not impede access to the exit door of the vehicle.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:477 and R.S. 46:1410 et seq.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of the Secretary, Bureau of Licensing, LR 27:1579 (September 2001), repromulgated by the Department of Social Services, Office of the Secretary, Bureau of Residential Licensing, LR 33:2754 (December 2007), repromulgated by the Department of Social Services, Office of Community Services, LR 35:1632 (August 2009).

Chapter 71. Residential Homes—Type IV

§7101. Purpose

A. It is the intent of the legislature to protect the health, safety, and well-being of the children and residents of the state who are in out-of-home care on a regular or consistent basis. Toward that end, it is the purpose of chapter 14 of title 46 of the *Louisiana Revised Statutes* to establish statewide minimum standards for the safety and well-being of children and residents, to ensure maintenance of these standards, and to regulate conditions in these facilities through a program of licensing. It shall be the policy of the state to ensure protection of all individuals under care by specialized providers and to encourage and assist in the improvement of programs. It is the further intent of the legislature that the freedom of religion of all citizens shall be inviolate.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:477 and R.S. 46:1401 et seq.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Community Service, LR 36:804 (April 2010), amended by the Department of Children and Family Services, Licensing Section, LR 43:246 (February 2017).

§7103. Authority

A. Legislative Provisions

1. The state of Louisiana, Department of Children and Family Services, is charged with the responsibility of developing and publishing standards for the licensing of residential homes.

a. The licensing authority of the Department of Children and Family Services is established by R.S. 46:1401 et seq., and R.S. 46:51 which mandate the licensing of all residential homes. A residential home is any place, facility, or home operated by any institution, society, agency, corporation, person or persons, or any other group to provide full-time care, 24 hours per day, for more than four children, who may remain at the facility in accordance with R.S. 46:1403.1, who are not related to the operators and, except as provided in this Subparagraph, whose parents or guardians are not residents of the same facility, with or without transfer of custody. However, a child of a person who is a resident of a residential home may reside with that parent at the same facility. The age requirement may be exceeded as stipulated in R.S. 46:1403.1 which states that, "...notwithstanding any other provision of law to the contrary, including but not limited to R.S. 46:1403(1), a child housed at a residential home may stay at such home for a period not to exceed six months beyond his eighteenth birthday to complete any educational course that he began at such facility, including but not limited to a general education development (GED) course, and any other program offered by the residential home". In addition, the R.S. 46:1403.1(B) further stipulates that, “Notwithstanding Subsection A of this Section and any other provision of law to the contrary, including but not limited to R.S. 46:1403(1), a child housed at a residential home that does not receive Title IV-E funding pursuant to 42 USC 670 et seq., may remain at such home until his twenty-first birthday to complete any educational course that he began at such facility, including but not limited to a General Education Development course, and any other program offered by the residential home.”

2. In accordance with HCR 71 of the 2020 Legislative Session, license renewal fees due from July 1, 2020 through June 30, 2021 are hereby suspended for existing residential homes located in Louisiana as part of Louisiana’s response to and as a way to help businesses reopen and recover from COVID-19.

B. Penalties. As mandated by R.S. 46:1421, whoever operates as a specialized provider as defined in R.S. 46:1403, without a valid license issued by the department shall be fined not less than $1,000 for each day of such offense.

C. Waiver Request

1. The secretary of the department, in specific instances, may waive compliance with a standard, as long as the health, safety, and well-being of the staff and/or the health, safety, rights, or well-being of residents or children of residents are not imperiled. Standards shall be waived only when the secretary determines that the economic impact is sufficient to make compliance impractical.

2. Application for a waiver shall be made in writing and shall include:

a. a statement of the provisions for which a waiver is being requested; and

b. an explanation of the reasons why the provisions cannot be met and why a waiver is being requested.

3. The request for a waiver will be answered in writing and approvals will be maintained on file by the requesting provider and the department. A waiver is issued at the discretion of the secretary and continues in effect at her pleasure. It may be revoked by the secretary at any time, either upon violation of any condition attached to it at issuance, upon failure of any of the statutory prerequisites to issuance of a waiver (i.e., the cost of compliance is no longer so great as to be impractical or the health or safety of any staff or any child of a resident or resident is imperiled), or upon her determination that continuance of a waiver is no longer in the best interest of the department.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:477 and R.S. 46:1401 et seq.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Community Service, LR 36:805 (April 2010), amended by the Department of Children and Family Services, Division of Programs, Licensing Section, LR 39:67 (January 2013), amended by the Department of Children and Family Services, Licensing Section, LR 43:246 (February 2017), LR 47:230 (February 2021), effective March 1, 2021.

§7105. Definitions

A. As used in this Chapter:

Abuse—any one of the following acts which seriously endangers the physical, mental, or emotional health of the resident or child of a resident:

a. the infliction, attempted infliction, or, as a result of inadequate supervision, the allowance of the infliction or attempted infliction of physical or mental injury upon the resident or child of a resident by a parent or any other person;

b. the exploitation or overwork of a resident or child of a resident by a parent or any other person; and

c. the involvement of the resident or child of a resident in any sexual act with a parent or any other person, or the aiding or toleration by the parent or the caretaker of the resident's or child of a resident's sexual involvement with any other person or of the resident's or child of a resident's involvement in pornographic displays or any other involvement of a resident or child of a resident in sexual activity constituting a crime under the laws of this state.

Affiliate—

a. with respect to a partnership, each partner thereof;

b. with respect to a corporation, each officer, director and stockholder thereof;

c. with respect to a natural person, that person and any individual related by blood, marriage, or adoption within the third degree of kinship to that person; any partnership, together with any or all its partners, in which that person is a partner; and any corporation in which that person an officer, director or stockholder, or holds, directly or indirectly, a controlling interest;

d. with respect to any of the above, any mandatory, agent, or representative or any other person, natural or juridical acting at the direction of or on behalf of the licensee or applicant; or

e. director of any such.

Age or Developmentally-Appropriate Activities or Items—activities or items that are generally accepted as suitable for an individual of the same chronological age or level of maturity or that are determined to be developmentally appropriate for an individual, based on the development of cognitive, emotional, physical, and behavioral capacities that are typical for an age or age group; and in the case of a specific individual, activities or items that are suitable for the individual based on the developmental stages attained by the individual with respect to the cognitive, emotional, physical, and behavioral capacities of the individual.

Behavior Support—the entire spectrum of activities from proactive and planned use of the environment, routines, and structure of the particular setting to less restrictive interventions such as positive reinforcement, verbal interventions, de-escalation techniques, and therapeutic activities that are conducive to each resident's development of positive behavior.

Behavior Support Plan—a written document that addresses the holistic needs of the resident and includes the resident's coping strategies, de-escalation preferences, and preferred intervention methods.

Child—a person who has not reached age 18 or otherwise legally emancipated.

Complaint—an allegation that any person is violating any provisions of these standards or engaging in conduct, either by omission or commission, that negatively affects the health, safety, rights, or welfare of any resident or child of a resident who is residing in a residential home.

Contractor—any person who renders professional services, therapeutic services, enrichment services, or counseling to residents and/or children of residents such as educational consulting, athletic, or artistic services within a residential home, whose services are not integral to either the operation of the residential home or to the care and supervision of residents and/or children of residents. Contractors may include, but are not limited to social workers, counselors, dance instructors, gymnastic or sports instructors, computer instructors, speech therapists, licensed health care professionals, art instructors, state-certified teachers employed through a local school board, and other outside contractors. A person shall not be deemed a contractor if he/she is a staff person of the residential home.

Criminal Background Check—a review of any and all records containing any information collected and stored in the criminal record repository of the Federal Bureau of Investigation, the state Department of Public Safety and Corrections, or any other repository of criminal history records, involving a pending arrest or conviction by a criminal justice agency, including, but not limited to, child abuse crime information, conviction record information, fingerprint cards, correctional induction and release information, identifiable descriptions and notations of convictions; provided, however, dissemination of such information is not forbidden by order of any court of competent jurisdiction or by federal law.

DAL—the Division of Administrative Law.

Debriefing—a process by which information is gathered from all involved parties after the use of personal restraints or seclusion that includes an evaluation of the incident, documentation detailing the events leading up to the incident, and ways to avoid such incidents in the future.

Department (*DCFS*)—Department of Children and Family Services.

Direct Care Worker—a person counted in the resident or child/staff ratio, whose duties include the direct care, supervision, guidance, and protection of a resident or child of a resident. This does not include a contract service provider who provides a specific type of service to the operation for a limited number of hours per week or month or works with one particular resident or child of a resident.

Direct Supervision—the function of observing, overseeing, and guiding a resident or child of a resident and/or group of residents or children of residents. This includes awareness of and responsibility for the ongoing activity of each individual and being near enough to intervene if needed. It requires physical presence, accountability for their care, knowledge of activity requirements, and knowledge of the individual's abilities and needs.

Discipline—the ongoing positive process of helping children of residents or residents develop inner control so that they can manage their own behavior in an appropriate and acceptable manner by using corrective action to change the inappropriate behavior.

Disqualification Period—the prescriptive period during which the department shall not process an application from a provider. Any unlicensed operation during the disqualification period shall interrupt running of prescription until the department has verified that the unlicensed operation has ceased.

Documentation—written evidence or proof, signed and dated by the parties involved (director, residents, staff, etc.), and available for review.

Effective Date—of a revocation, denial, or non-renewal of a license shall be the last day for applying to appeal the action, if the action is not appealed.

Employee—all full- or part-time paid or unpaid staff who perform services for the residential home and have direct or indirect contact with children of residents or residents at the facility. Facility staff includes the director and any other employees of the facility including, but not limited to the cook, housekeeper, driver, custodian, secretary, and bookkeeper.

Facility—residential home as defined in R.S. 46:1403.

Human Service Field—the field of employment similar or related to social services such as social work, psychology, sociology, special education, rehabilitation counseling, child development, guidance and counseling, divinity, education, juvenile justice and/or corrections through which a person gains experience in providing services to the public and/or private clients that serves to meet the years of experience required for a job as specified on the job description for that position.

Infant—a child that has not yet reached his first birthday.

Injury of Unknown Origin—an injury where the source of the injury was not observed by any person or the source of the injury could not be explained by the resident or child of a resident and the injury is suspicious because of the extent of the injury or the location of the injury (e.g., the injury is located in an area not generally vulnerable to trauma).

Interdiction—a legal restraint upon a person incapable of managing his estate, because of mental incapacity, from signing any deed or doing any act to his own prejudice, without the consent of his curator or interdictor.

Juridical Entity—corporation, partnership, limited-liability company, church, university, or governmental entity.

Legal Guardian—person who has the legal authority and the corresponding duty to care for the personal and property interest of another person.

Legal Guardianship—the duty and authority to make important decisions in matters having a permanent effect on the life and development of the resident or child of a resident and the responsibility for the resident's or child of a resident's general welfare until he reaches the age of

majority, subject to any rights possessed by the parents. It shall include the rights and responsibilities of legal custody.

License—any license issued by the department to operate a facility as defined in R.S. 46:1403.

Licensing Section—DCFS Licensing Section.

Lifebook—a record of a resident's or child of a resident's life which chronicles accomplishments, milestones, and important people in their lives through pictures, words, artwork, and memorabilia.

Mandated Reporter—professionals who may work with children of residents or residents in the course of their professional duties and who consequently are required to report all suspected cases of abuse and neglect. This includes any person who provides training and supervision of a child of a resident or resident, such as a public or private school teacher, teacher's aide, instructional aide, school principal, school staff member, social worker, probation officer, foster home parent, group home or other child care institution staff member, personnel of residential homes, a licensed or unlicensed day care provider, any individual who provides such services to a child of a resident or resident, or any other person made a mandatory reporter under article 603 of the *Children's Code* or other applicable law.

Medication—all drugs administered internally and/or externally, whether over-the-counter or prescribed.

Neglect—the refusal or unreasonable failure of a parent or caretaker to supply the child of a resident or resident with necessary food, clothing, shelter, care, treatment, or counseling for any injury, illness, or condition of an individual under the age of 18, as a result of which the individual's physical, mental, or emotional health and safety is substantially threatened or impaired.

Operator—owner of a residential home.

Owner or *Operator*—individual or juridical entity exercising direct or indirect control over a licensed entity. For licensing purposes the following are considered owners.

a. *Individual Ownership*—individual and spouse listed on the licensing application submitted and who have access to the children/youth in care of the provider and/or children/youth who receive services from the provider and/or who are present at any time on the facility premises when children/youth are present;

b. *Partnership*—all limited or general partners and managers who are listed on the licensing application submitted and who have access to the children/youth in care of the provider and/or children/youth who receive services from the provider, and/or who are present at any time on the facility premises when children/youth are present;

c. *Church Owned, University Owned* or *Governmental Entity*—any clergy and/or board member who is listed on the licensing application submitted and who has access to the children/youth in care of the provider, and/or children/youth who receive services from the provider, and/or who is present at any time on the facility premises when children/youth are present; or

d. *Corporation* (includes limited liability companies)—individual(s) who is registered as an officer of the board with the Louisiana Secretary of State and/or listed on the licensing application submitted and who has access to the children/youth in care of the provider, and/or children/youth who receive services from the provider, and/or who is present at any time on the facility premises when children/youth are present.

e. *Direct Ownership*—when a natural person is the immediate owner of a residential home, i.e., exercising control personally rather than through a juridical entity.

f. *Indirect Ownership*—when the immediate owner is a juridical entity.

Personal Restraint—a type of emergency behavior intervention that uses the application of physical force without the use of any device to restrict the free movement of all or part of a resident's body in order to control physical activity. Personal restraint includes escorting, which is when a staff uses physical force to move or direct a resident who physically resists moving with the staff to another location.

Program Director—the person with authority and responsibility for the on-site, daily implementation, and supervision of the overall facility's operation.

Provider—any facility, organization, agency, institution, program, or person licensed by the department to provide services to children of residents or residents which includes all owners of a facility, including the program director of such facility.

Reasonable and Prudent Parent Standard—standard that a caregiver shall use when determining whether to allow a resident or child of a resident in foster care under the responsibility of the state to participate in extracurricular, enrichment, cultural, and social activities. The standard is characterized by careful and sensible parental decisions that maintain the health, safety, and best interests of a resident or child of a resident while at the same time encouraging the emotional and developmental growth of the resident or child of a resident.

Reasonable and Prudent Parent Training—training that includes knowledge and skills relating to the reasonable and prudent parent standard for the participation of the resident or child of a resident in age or developmentally-appropriate activities. This includes knowledge and skills relating to the developmental stages of the cognitive, emotional, physical, and behavioral capacities of a resident or child of a resident and knowledge and skills relating to applying the standard to decisions such as whether to allow the resident or child of a resident to engage in social, extracurricular, enrichment, cultural, and social activities. Activities include sports, field trips, and overnight activities lasting one or more days. Also included is knowledge and skills in decisions involving the signing of permission slips and arranging of transportation

for the resident or child of a resident to and from extracurricular, enrichment, and social activities.

Reasonable Suspicion— to have or acquire information containing specific and articulable facts indicating that an owner, operator, current or potential employee, or volunteer has been investigated and determined to be the perpetrator of abuse and/or neglect of a minor with a justified (valid) finding currently recorded on the state central registry.

Related or *Relative*—a natural or adopted child or grandchild of the caregiver or a child in the legal custody of the caregiver.

Resident—an individual who receives full-time care at a residential home and whose parents do not live in the same facility nor is the individual related to the owner of the facility.

Residential Home—any place, facility, or home operated by any institution, society, agency, corporation, person or persons, or any other group to provide full-time care, 24 hours per day, for more than four children, who may remain at the facility in accordance with R.S. 46:1403.1, who are not related to the operators and, except as provided in this Paragraph, whose parents or guardians are not residents of the same facility, with or without transfer of custody. However, a child of a person who is a resident of a residential home may reside with that parent at the same facility.

Rest Time—period between 9 p.m. and 6 a.m. when residents are either asleep or are lying down in their own beds with the intent of going to sleep. Residents may be reading, listening to music, or other individual quiet activities that promote said sleep time.

Safety Interventions—an immediate time limited plan to control the factor(s) that may result in an immediate or impending serious injury/harm to a resident or child(ren) of the resident.

Seclusion—involuntary confinement of a resident away from other residents, due to imminent risk of harm to self or others, in a room which the resident is physically prevented from leaving.

Service Plan—a written plan of action for residents usually developed between the family, resident, social worker, and other service providers, that identifies needs, sets goals, and describes strategies and timelines for achieving goals.

Staff—all full- or part-time paid or unpaid staff who perform services for the residential home and have direct or indirect contact with children of residents or residents at the facility. Facility staff includes the director and any other employees of the facility including, but not limited to the cook, housekeeper, driver, custodian, secretary, and bookkeeper.

State Central Registry—repository that identifies individuals with certain justified (valid) findings of abuse and/or neglect of a child or children by the Department of Children and Family Services.

Substantial Bodily Harm—physical injury serious enough that a prudent person would conclude that the injury required professional medical attention. It does not include minor bruising, the risk of minor bruising, or similar forms of minor bodily harm that will resolve healthily without professional medical attention.

Supervision—the function of observing, overseeing, and guiding a resident or child of a resident and/or group of residents or children of residents. This includes awareness of and responsibility for the ongoing activity of each individual and being near enough to intervene if needed. It requires accountability for their care, knowledge of activity requirements, and knowledge of the individual's abilities and needs.

Time-Out—a strategy used to teach individuals to calm themselves, during which a child of a resident or resident is not given the opportunity to receive positive reinforcement and/or participate in the current routine or activity until he/she is less agitated.

Type IV License—license held by any public- or privately-owned residential home.

Unlicensed Operation—operation of a residential home, at any location, without a valid, current license issued by the department for that location.

Volunteer—an individual who works at the facility and whose work is uncompensated. This may include students, interns, tutors, counselors, and other non-staff individuals who may or may not work directly with the residents or children of residents.

Waiver—an exemption granted by the secretary of the department from compliance with a standard that will not place the resident, child of a resident, or staff member at risk.

Youth—a person not less than 16 years of age nor older than 21 years of age in accordance with R.S. 46:1403.1(B).

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:477 and R.S. 46:1401 et seq.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Community Service, LR 36:805 (April 2010), amended by the Department of Children and Family Services, Division of Programs, Licensing Section, LR 38:976 (April 2012), LR 42:220 (February 2016), amended by the Department of Children and Family Services, Licensing Section, LR 43:246 (February 2017), amended by the Department of Children and Family Services, Licensing Section, LR 45:519 (April 2019), effective May 1, 2019, LR 46:673 (May 2020), effective June 1, 2020.

§7107. Licensing Requirements

A. General Provisions

1. New buildings shall be designed to appear physically harmonious with the neighborhood in which they are located considering such issues as scale, appearance, density, and population. A residential home shall not occupy

any portion of a building licensed by another agency. A residential home shall be a self-contained facility. The mixing of differing populations is prohibited.

2. Before beginning operation, it is mandatory to obtain a license from the department.

3. All new construction or renovation of a facility requires approval from agencies listed in Subparagraphs B.2.b-f of this Section.

4. In addition, all facilities shall comply with the requirements of the Americans with Disabilities Act, 42 USC §12101 et seq. (ADA).

5. Owners shall have a fingerprint-based criminal background check through the Federal Bureau of Investigation (FBI) on file with the residential home as noted in §7124.A or §7124.B, as applicable and in accordance with R.S. 46:51.2 and 15:587.1. If an individual has previously obtained a certified copy of their criminal background check from the Louisiana State Police, such certified copy shall be acceptable as meeting the CBC requirements.

6. CBCs/attestation forms shall be dated prior to the date the initial license is issued, but no earlier than 45 days prior to the initial application being received by the Licensing Section.

7. When an individual is listed on the licensing application or the Secretary of State's website as an officer and does not have access to residents and/or children of residents in care or who receive services from the provider and/or is not present at any time on the facility premises when children/youth are present, a DCFS approved attestation form signed and dated by the individual is acceptable in lieu of a satisfactory fingerprint-based CBC from LSP through the Federal Bureau of Investigation (FBI). The attestation form shall be accepted for a period of one year from the date individual signed attestation form.

8. A new Federal Bureau of Investigation (FBI) criminal background clearance and Louisiana State Central Registry clearance are required if an individual is terminated, resigns, or no longer provides services for longer than one 24-hour period and is then re-instated.

9. Documentation of a state central registry clearance as required in §7112.

10. Providers and staff shall not permit an individual convicted of a sex offense as defined in R.S. 15:541 to have physical access to a residential home as defined in R.S. 46:1403.

11. The owner or program director of a residential home shall be required to call and notify law enforcement personnel and the Licensing Section management staff if they have knowledge that a registered sex offender is on the premises of the residential home. The verbal report shall be followed by a written report to the Licensing Section within 24 hours.

12. The owner or director of a residential home shall be required to call and notify law enforcement personnel if they have knowledge that a registered sex offender is within 1,000 feet of the residential home as required by R.S 14:91.1. The verbal report shall be followed by a written report to the Licensing Section within 24 hours.

13. Providers with live-in staff may allow children of staff members to reside with their parents in the private staff quarters of the residential home.

14. Provider nor staff shall permit a resident, age 18 years or older, that has been convicted of, pled guilty, or nolo contendere to any offense listed in R.S. 15:587.1. or to any offense involving a juvenile victim to remain on the premises of the residential home.

15. The email address provided to the Licensing Section on the licensing application is the official email address unless the provider subsequently submits written notification of a change of email address to the Licensing Section and the request is acknowledged as received by licensing staff.

B. Initial Licensing Application Process

1. An initial application for licensing as a residential home shall be obtained from the department.

Department of Children and Family Services
Licensing Section
P.O. Box 260036
Baton Rouge, LA 70826
Phone: (225) 342-4350
Fax: (225) 219-4363
Web address: www.DCFS.louisiana.gov

2. After the residential home's location has been established, a completed initial license application packet for an applicant shall be submitted to and approved by the department prior to an applicant providing services. The completed initial licensing packet shall include:

a. completed application and non-refundable fee;

b. current Office of State Fire Marshal approval for occupancy;

c. current Office of Public Health, Sanitarian Services approval;

d. current city fire department approval (if applicable);

e. city or parish building permit office approval (if applicable);

f. local zoning approval (if applicable);

g. copy of proof of current general liability and current property insurance for facility;

h. copy of current proof of insurance for vehicle(s) used to transport residents or children of residents;

i. organizational chart or equivalent list of staff titles and supervisory chain of command;

j. verification of experience and educational requirements for the program director ;

k. verification of experience and educational requirements for the service plan manager ;

l. list of consultant/contract staff to include name, contact info, and responsibilities;

m. list of all staff to include staff's name and position;

n. a floor sketch or drawing of the premises to be licensed;

o. any other documentation or information required by the department for licensure;

p. documentation of a fingerprint-based satisfactory criminal record check through the FBI for all staff, volunteers, contractors, and owners of the facility as noted in §7124 , and required by R.S. 46:51.2 and 15:587.1. CBC shall be dated prior to the issue date of the initial license, but no earlier than 45 days before the application has been received by the Licensing Section;

q. documentation of a state central registry clearance as required in §7112;

r. current approval from the Department of Education, if educational services will be provided on-site for residents;

s. copy of the completed reasonable and prudent parent authorized representative form;

t. three signed reference letters dated within three months prior to hire for program director attesting affirmatively to his/her character, qualifications, and suitability to manage the program; and

u. three signed reference letters dated within three months prior to hire for service plan manager attesting affirmatively to his/her character, qualifications, and suitability for the position.

3. If the initial licensing packet is incomplete, the applicant will be notified of the missing information and will have 45 calendar days to submit the additional requested information. If the department does not receive the additional requested information within the 45 calendar days, the application will be closed and the fee forfeited. After an initial licensing application is closed, an applicant who is still interested in becoming a residential home provider shall submit a new initial licensing packet with a new initial licensing fee to restart the initial licensing process.

4. Once the department has determined the initial licensing packet is complete, Licensing Section staff will attempt to contact the applicant to schedule an initial inspection; however it is the applicant's responsibility to coordinate the initial inspection. If an applicant fails to schedule the initial inspection within 45 calendar days of the notification, the initial licensing application shall be closed and fee forfeited.

5. After an initial licensing application is closed, an applicant who is still interested in becoming a residential home provider shall submit a new initial licensing packet with a new initial licensing fee to restart the initial licensing process.

6. After the completed application and non-refundable fee have been received by the Licensing Section, Licensing Section staff will notify the Office of State Fire Marshal, Office of City Fire Department (if applicable), and Office of Public Health that an application for licensure has been submitted. However, it is the applicant's responsibility to request and obtain these inspections and approvals.

C. Initial Licensing Inspection

1. Prior to the initial license being issued to the residential home provider, an initial licensing inspection shall be conducted on-site at the residential home to assure compliance with all licensing standards. The initial licensing inspection shall be an announced inspection. No resident shall be provided services by the residential home provider until the initial licensing inspection has been performed and the department has issued an initial license. If the provider is in operation in violation of the law, the licensing inspection shall not be conducted. In these instances, the application shall be denied and DCFS shall pursue legal remedies.

2. In the event the initial licensing inspection finds the residential home provider is compliant with all licensing laws and standards, and is compliant with all other required statutes, laws, ordinances, rules, regulations, and fees, the department may issue a license to the provider. The license shall be valid until the expiration date shown on the license, unless the license is modified, extended, revoked, suspended, or terminated.

3. In the event the initial licensing inspection finds the residential home provider is noncompliant with any licensing laws or standards, or any other required statutes, laws, ordinances, rules, or regulations, the department may conduct a follow-up inspection to verify compliance with all licensing laws or standards and other required statutes, laws, ordinances, rules, or regulations.

4. The application shall be denied if the department is unable to issue a license within 180 calendar days of receipt of the completed initial application packet due to provider non-compliance.

5. When issued, residential home provider licenses shall specify the licensed bed capacity. Children of residents shall not be counted in the facility's licensed capacity; however the license will note if the provider is licensed to provide services to children of residents.

D. Fees and Notification of Changes

1. All fees are non-refundable and shall be paid by money order, certified check, or electronic payment, if available, made payable to DCFS-Licensing Section.

2. In accordance with R.S 46:1406(E), there shall be a non-refundable fee as prescribed by the department for a license or renewed license, payable to the department with the initial licensing application, CHOL application, CHOW

application, and prior to the last day of the anniversary month of the license as listed below, based on capacity.

4 to 6 Residents	7 to 15 Residents	16 or More Residents
$400	$500	$600

NOTE: Children of residents are not counted in the facility's licensed capacity.

3. A non-refundable fee of $5 is required to issue a duplicate license with no changes.

4. The provider shall notify the Licensing Section on a DCFS-approved change of information form prior to making changes to residential operations as noted below. For changes that require the issuance of a new replacement license, the provider shall be required to submit a non-refundable change fee of $25 in addition to the change of information form. There is no fee charged when the request is noted on the renewal application; however, the change shall not be effective until the first day of the month following the expiration of the current license.

a. Removal of a service or reduction in capacity is effective upon receipt of a completed change of information form.

b. A capacity increase is effective when the following are received and approved by the Licensing Section and the new space shall not be utilized until approval has been granted by the Licensing Section:

i. completed change of information form;

ii. $25 non-refundable change fee; an additional fee may be required in accordance with Paragraph D.2 of this Section based on new capacity;

iii. current Office of State Fire Marshal approval for new space;

iv. current Office of Public Health approval for new space;

v. current city fire approval for new space (if applicable); and

vi. measurement of the additional space by Licensing Section staff.

c. Name change is effective when the following are received by the Licensing Section:

i. completed change of information form; and

ii. $25 non-refundable change fee.

d. Age range change for residents is effective when the following are received and approved by the Licensing Section:

i. completed change of information form; and

ii. $25 non-refundable change fee.

e. Change to add services provided (acceptance of children of residents) is effective when the following is received and approved by the Licensing Section:

i. completed change of information form;

ii. $25 non-refundable change fee;

iii. current Office of State Fire Marshal approval form noting acceptance of infants or children of residents;

iv. current Office of Public Health approval noting acceptance of infants or children of residents;

v. inspection by the Licensing Section noting compliance with regulations regarding the children of residents.

f. Change in program director is effective when the following is received and approved by the Licensing Section:

i. completed change of information form;

ii. documentation of program director's qualifications as noted in §7111.A.3.a; and

iii. three signed letters of reference dated within three months prior to hire attesting affirmatively to his/her character, qualifications, and suitability to manage the program.

iv. satisfactory SCR clearance form from Child Welfare dated no earlier than 45 days of the individual being present in the facility/hired; and

v. satisfactory fingerprint-based FBI criminal background check dated no earlier than 45 days of the individual being present in the facility/hired.

5. If a provider is found to be non-compliant with regard to a particular service offered or with a particular age group of children of residents/residents, DCFS may require the provider to cease providing the service and/or restrict the age of the children of residents/residents for which the provider is licensed to provide services.

6. All new construction or renovation of a facility requires approval from agencies listed in Subparagraph B.2.b-f of this Section and the Licensing Section.

7. A license is not transferable to another person, juridical entity, or location.

E. Renewal of License

1. The license shall be renewed on an annual basis prior to the last day of the anniversary month of the license.

2. The provider shall submit, prior to its license expiration date, a completed renewal application form and applicable fee. The following documentation must also be included:

a. current Office of State Fire Marshal approval for occupancy;

b. current Office of Public Health, Sanitarian Services approval;

c. current city fire department approval (if applicable);

d. copy of proof of current general liability and current property insurance for facility;

e. copy of proof of current insurance for vehicle(s) used to transport residents and children of residents;

f. copy of a criminal background clearance or attestation forms as referenced in §7124.A or §7124.B, as applicable for all owners and §7124.C or §7124.D, as applicable for program directors as required by R.S. 46:51.2 and 15.587.1; and

g. copy of current state central registry clearance forms for all owners and program directors/administrators.

3. Prior to renewing the facility license, an on-site inspection shall be conducted to ensure compliance with all licensing laws and standards. If the facility is found to be in compliance with the licensing laws and standards, and any other required statutes, laws, ordinances, or regulations, the license shall be renewed for a 12-month period.

4. In the event the annual licensing inspection finds the facility is non-compliant with any licensing laws or standards, or any other required statutes, ordinances or regulations but the department, in its sole discretion, determines that the noncompliance does not present a threat to the health, safety, or welfare of the participants, the provider shall be required to submit a corrective action plan to the department for approval. The department shall specify the timeline for submitting the corrective action plan based on such non-compliance or deficiencies cited but no later than 10 days from the date of the inspection or receipt of the deficiencies if mailed or emailed. The corrective action plan shall include a description of how the deficiency shall be corrected, the date by which correction(s) shall be completed, an outline of the steps the provider plans to take in order to prevent further deficiencies from being cited in these areas, and the plan to maintain compliance with the licensing standards. Failure to submit an approved corrective action plan timely shall be grounds for revocation or non-renewal.

5. If it is determined that such noncompliance or deficiencies have not been corrected prior to the expiration of the license, the department may issue an extension of the license not to exceed 60 days.

6. When it is determined by the department that such noncompliance or deficiencies have been corrected, a license may be issued for a period not to exceed 12 months.

7. If it is determined that all areas of noncompliance or deficiencies have not been corrected prior to the expiration date of the extension, the department may revoke the license.

F. Change of Location (CHOL) and Change of Ownership (CHOW)

1. Change of Location (CHOL)

a. When a provider changes the physical location of the residential home, it is considered a new operation and a new license is required prior to opening. In accordance with R.S. 46:1406, the license at the existing location shall not transfer to the new residential home location.

b. After the residential home's new location has been determined, a complete CHOL licensing packet shall be submitted to the Licensing Section. A complete CHOL licensing packet shall include:

i. completed application and non-refundable fee;

ii. current Office of State Fire Marshal approval for occupancy;

iii. current Office of Public Health, Sanitarian Services approval;

iv. current city fire department approval (if applicable);

v. city or parish building permit office approval (if applicable);

vi. local zoning approval (if applicable);

vii. copy of proof of current general liability and current property insurance for facility;

viii. copy of current proof of insurance for vehicle(s) used to transport residents or children of residents;

ix. organizational chart or equivalent list of staff titles and supervisory chain of command;

x. verification of experience and educational requirements for the program director (if applicable);

xi. verification of experience and educational requirements for the service plan manager (if applicable);

xii. list of consultant/contract staff to include name, contact info, and responsibilities;

xiii. list of all staff to include staff's name and position;

xiv. a floor sketch or drawing of the premises to be licensed;

xv. any other documentation or information required by the department for licensure;

xvi. documentation of a fingerprint-based satisfactory criminal record check through the FBI for all staff, volunteers, contractors, and owners of the facility, as noted in §7124 and required by R.S. 46:51.2 and 15:587.1;

xvii. documentation of a state central registry clearance as required in §7112;

xviii. current approval from the Department of Education, if educational services will be provided on-site; and

xix. current completed reasonable and prudent parent authorized representative form as referenced in §7111.A.10.

c. CHOL inspection will be conducted between the currently licensed and new location to determine compliance with all standards. The inspection at the new location shall

be to verify compliance with all licensing standards with the exception of staff and children of residents/residents records that will be transferred. After closure of the old location and prior to the services being provided at the new location, all staff's, resident's, and children of resident's records shall be transferred to the new location.

d. Services shall not be provided simultaneously at both locations.

e. The license for the new location may be effective upon receipt of all items listed in Paragraph F.1 of this Section with the approval of DCFS, but not prior to the first day operations begin at the new location.

f. The license for the old location shall be null and void on the last day services were provided at that location, but no later than the effective date of the new location's license. Provider shall submit documentation noting the last day services will be provided at the old location.

2. Change of Ownership (CHOW)

a. Any of the following constitutes a change of ownership for licensing purposes:

i. change in the federal tax ID number;

ii. change in the state tax ID number;

iii. change in profit status;

iv. any transfer of the business from an individual or juridical entity to any other individual or juridical entity;

v. termination of services by one owner and beginning of services by a different owner without a break in services to the children of residents/residents; and/or

vi. addition of an individual to the existing ownership (individual or partnership) on file with the Licensing Section.

3. Change of Ownership (CHOW) Procedures

a. When a residential home changes ownership, the current license is not transferable. Prior to the ownership change and in order for a new license to be issued, the new owner shall submit a CHOW application packet containing the following:

i. completed application form with a non-refundable licensing fee as noted in Paragraph D.2 of this Section payable by money order, certified check, or electronic payment, if available, made payable to DCFS-Licensing Section;

ii. current Office of State Fire Marshal approval for occupancy;

iii. current Office of Public Health, Sanitarian Services approval;

iv. current city fire department approval (if applicable);

v. city or parish building permit office approval (if applicable);

vi. local zoning approval (if applicable);

vii. copy of proof of current general liability and current property insurance for facility in name of new owner;

viii. copy of current proof of insurance in name of new owner for vehicle(s) used to transport residents or children of residents;

ix. organizational chart or equivalent list of staff titles and supervisory chain of command;

x. verification of experience and educational requirements for the program director;

xi. verification of experience and educational requirements for the service plan manager;

xii. list of consultant/contract staff to include name, contact info, and responsibilities;

xiii. list of all staff to include staff's name and position;

xiv. a floor sketch or drawing of the premises to be licensed;

xv. any other documentation or information required by the department for licensure;

xvi. documentation of a fingerprint-based satisfactory criminal record clearance through the FBI for all staff, volunteers, contractors, and owners as noted in §7124 as applicable and required by R.S. 15:587.1 and 46:51.2. CBC shall be dated no earlier than 45 days before the application has been received by the Licensing Section. The prior owner's documentation of a satisfactory criminal background check for staff, volunteers, contractors, and/or owners is not transferrable;

xvii. documentation of a state central registry clearances for all owners and staff as required in §7112;

xviii. current approval from the Department of Education, if educational services will be provided on-site for residents;

xix. copy of the current completed reasonable and prudent parent authorized representative form;

xx. three signed reference letters dated within three months prior to hire for program director attesting affirmatively to his/her character, qualifications, and suitability to manage the program; and

xxi. three signed reference letters dated within three months prior to hire for service plan manager attesting affirmatively to his/her character, qualifications, and suitability for the position.

b. The prior owner's current Office of State Fire Marshal and Office of Public Health approvals are only transferrable for 60 calendar days. The new owner shall obtain approvals dated after the effective date of the new license from these agencies within 60 calendar days. The new owner will be responsible for forwarding the approval or extension from these agencies to the Licensing Section on

or prior to the sixtieth day in order for their license to be extended. If approvals or extensions are not submitted to the Licensing Section prior to the sixtieth day, the license shall be revoked.

c. A licensing inspection shall be conducted within 60 calendar days to verify compliance with the licensing standards.

d. All staff/children of residents'/resident's information shall be updated under the new ownership as required in LAC 67:V.7111.A.2.c, A.5, A.7, B.2, and B.4.b-g prior to or on the last day services are provided by the existing owner.

e. If all information in Paragraph F.3 of this Section is not received prior to or on the last day services are provided by the existing owner, the new owner shall not operate until a license is issued. The new owner is not authorized to provide services until the licensure process is completed in accordance with Paragraph F.3 of this Section.

f. In the event of a change of ownership, the resident's and children of resident's records shall remain with the new provider.

g. A residential home facing adverse action shall not be eligible for a CHOW. An application involving a residential home facing adverse action shall be treated as an initial application rather than a change of ownership application.

4. Change in Ownership Structure

a. Although the following does not constitute a change of ownership for licensing purposes, a change of information form is required.

i. The change of information form shall be submitted to the Licensing Section within 14 calendar days of the change:

(a). if individual ownership, upon death of the spouse;

(b). if individual ownership, upon death of the spouse and execution of the estate, if the surviving spouse remains as the only owner.

b. The change of information form shall be submitted to the Licensing Section within seven calendar days of the change:

i. if individual ownership, undergoing a separation or divorce until a judicial termination of the community aquets and gains, signed by both parties;

ii. change in board members for churches, corporations, limited liability companies, universities, or governmental entities;

iii. any removal of a person from the existing organizational structure under which the residential home is currently licensed.

G. Denial, Revocation, or Non-Renewal of License

1. Even if a facility is otherwise in compliance with these standards, an application for a license may be denied, or a license revoked or not renewed for any of the following reasons:

a. cruelty or indifference to the welfare of the residents or children of residents in the residential home;

b. violation of any provision of the standards, rules, regulations, or orders of the department;

c. disapproval from any agency whose approval is required for licensing;

d. any validated instance of abuse and/or neglect as noted by inclusion on the state central registry if the owner is responsible or if the staff member who is responsible remains in the employment of the licensee;

e. the facility is closed with no plans for reopening and no means of verifying compliance with minimum standards for licensure;

f. any act of fraud such as falsifying or altering documents required for licensure;

g. the owner, director, officer, board of directors member, or any person designated to manage or supervise staff or any staff providing care, supervision, or treatment to a resident or child of a resident of the facility has been convicted of or pled guilty or nolo contendere to any offense listed in R.S. 15:587.1. A copy of a criminal record check performed by the Louisiana State Police (LSP) or other law enforcement provider, or by the Federal Bureau of Investigation (FBI), or a copy of court records in which a conviction or plea occurred, indicating the existence of such a plea or conviction shall create a rebuttals presumption that such a conviction or plea exists;

h. the provider, after being notified that an officer, director, board of directors member, manager, supervisor, or any employee has been convicted of or pled nolo contendere to any offense referenced above, allows such officer, director, or employee to remain employed, or to fill an office of profit or trust with the provider. A copy of a criminal record check performed by the LSP or other law enforcement provider, or by the FBI, or a copy of court records in which a conviction or plea occurred, indicating the existence of such a plea or conviction shall create a reputable presumption that such a conviction or plea exists;

i. failure of the owner, director, or any employee to report a known or suspected incident of abuse or neglect to child protection authorities;

j. revocation or non-renewal of a previous license issued by a state or federal provider;

k. a history of non-compliance with licensing statutes or standards, including but not limited to failure to take prompt action to correct deficiencies, repeated citations for the same deficiencies, or revocation or denial of any previous license issued by the department;

l. failure to submit an application for renewal or required documentation or to pay required fees prior to the last day of the anniversary month;

m. operating any unlicensed facility and/or program;

n. knowingly permit an individual with a justified (valid) finding of child abuse and/or neglect to be on the premises without being directly supervised by another paid employee of the facility, who has not disclosed that their name appears with a justified (valid) finding prior to receipt of the official notification from Child Welfare that the individual is listed on the state central registry;

o. permit an individual to be on the premises or to have access to children/youth when listed on the state central registry;

p. have a criminal background, as evidenced by the employment or ownership or continued employment or ownership of or by any individual (paid or unpaid staff) who has been convicted of, or pled guilty or nolo contendere to, any offense included in R.S. 15:587.1, or to any offense involving a juvenile victim;

q. own a residential home and have been convicted of or have pled guilty or nolo contender to any crime in which an act of fraud or intent to defraud is an element of the offense;

r. have knowledge that a convicted sex offender is on the premises and fail to notify law enforcement and licensing management staff immediately upon receipt of such knowledge;

s. have knowledge that a convicted sex offender is physically present within 1,000 feet of the facility and fail to notify law enforcement immediately upon receipt of such knowledge; or

t. have knowledge that a resident age 18 years or older has been convicted of, pled guilty, or nolo contendere to any offense listed in R.S. 15:587.1 or to any offense involving a juvenile victim and allow the resident to remain on the premises of the residential home.

2. If a license is revoked or not renewed or application denied or refused, a license may also be denied or refused to any affiliate of the licensee or applicant.

3. In the event a license is revoked or renewal is denied, (other than for cessation of business or non-operational status), or voluntarily surrendered to avoid adverse action; any owner, officer, member, manager, or program director of such licensee shall be prohibited from owning, managing, directing or operating another licensed facility for a period of not less than two years from the date of the final disposition of the revocation or denial action. The lapse of two years shall not automatically restore a person disqualified under this provision. The department, at its sole discretion, may determine that a longer period of disqualification is warranted under the facts of a particular case.

H. Disqualification of Facility and Provider

1. If a facility's license is revoked or not renewed due to failure to comply with state statutes and licensing rules, the department shall not process a subsequent application from the provider for that facility or any new facility for a minimum period of 24 months after the effective date of revocation or non-renewal or a minimum period of 24 months after all appeal rights have been exhausted, whichever is later (the disqualification period). Any subsequent application for a license shall be reviewed by the secretary or her designee prior to a decision being made to grant a license. The department reserves the right to determine, at its sole discretion, whether to issue any subsequent license.

2. Any voluntary surrender of a license by a facility facing the possibility of adverse action against its' license (revocation or non-renewal) shall be deemed to be a revocation for purposes of this rule, and shall trigger the same disqualification period as if the license had actually been revoked. In addition, if the applicant has had a history of non-compliance, including but not limited to revocation of a previous license, operation without a license, or denial of one or more previous applications for licensure, the department may refuse to process a subsequent application from that applicant for a minimum period of 24 months after the effective date of denial.

3. The disqualification period provided in this Rule shall include any affiliate of the provider.

I. Appeal Process for Denial, Non-Renewal, or Revocation

1. The DCFS Licensing Section, shall advise the applicant, program director, or owner by letter of the reasons for non-renewal or revocation of the license, or denial of an application, and the right of appeal. If the program director or owner is not present at the facility, delivery of the written reasons for such action may be made to any staff of the facility. Notice to a staff shall constitute notice to the facility of such action and the reasons therefore. A request for appeal shall include a copy of the letter from the Licensing Section that notes the reasons for revocation, denial, or non-renewal, together with the specific areas of the decision the appellant believes to be erroneous and/or the specific reasons the decision is believed to have been reached in error, and shall be mailed to: Department of Children and Family Services, Appeals Section, P.O. Box 2944, Baton Rouge, LA 70821-9118.

2. A provider shall have 15 calendar days from receipt of the letter notifying of the revocation or non-renewal to request an appeal. Provider may continue to operate during the appeals process as provided in the Administrative Procedure Act.

3. If the provider's license will expire during the appeal process, the provider shall submit all information as required in Paragraph E.2 of this Section. Each provider is solely responsible for obtaining the application form. The required information shall be received on or postmarked by the last day of the month in which the license expires, or the

provider shall cease operation at the close of business by the expiration date noted on the license.

4. A provider shall have 30 calendar days from receipt of the letter notifying of the denial of an application for a license to request an appeal.

5. The Appeals Section shall notify the Division of Administrative Law of receipt of an appeal request. Division of Administrative Law shall conduct a hearing. The appellant will be notified by DAL of the decision, either affirming or reversing the original decision.

6. If the decision of DCFS is affirmed or the appeal dismissed, the provider shall terminate operation of the residential home immediately. If the provider continues to operate without a license, the DCFS may file suit in the district court in the parish in which the facility is located for injunctive relief.

7. If the decision of DCFS is reversed, the license will be re-instated and the appellant may continue to operate.

J. Complaint Process

1. In accordance with RS 46:1418, the department shall investigate all complaints (except complaints concerning the prevention or spread of communicable diseases), including complaints alleging abuse or neglect, within prescribed time frames as determined by the department based on the allegation(s) of the complaint. All complaint inspections will be initiated within 30 days.

2. All complaint inspections shall be unannounced.

K. Posting of Notices of Revocation

1. The notice of revocation of the license shall be prominently posted.

a. The Department of Children and Family Services shall prominently post a notice of revocation action at each public entrance of the facility within one business day of such action. This notice must remain visible to the general public, other agencies, parents, guardians, and other interested parties of individuals that receive services from the provider.

b. It shall be a violation of these rules for a provider to permit the obliteration or removal of a notice of revocation that has been posted by the department. The provider shall ensure that the notice continues to be visible to the general public, parents, guardians, and other interested parties throughout the pendency of any appeals of the revocation.

c. The provider shall notify the department's licensing management staff verbally and in writing immediately if the notice is removed or obliterated.

d. Failure to maintain the posted notice of revocation required under these rules shall be grounds for denial, revocation, or non-renewal of any future license.

L. Retention of Records

1. Documentation of the previous 12 months' activity shall be available for review. Records shall be accessible during the facility's hours of operation.

2. For licensing purposes, children of residents' and resident's information shall be kept on file a minimum of one year from date of discharge from the program.

3. For licensing purposes, staff records shall be kept on file a minimum of one year from termination of employment with the provider.

4. Records for residents or children of residents in the custody of DCFS shall be kept on file a minimum of five years from the date of discharge from the facility.

5. If the facility closes, the owner of the facility shall store the resident records for five years.

6. All records shall be retained and disposed of in accordance with state and federal laws.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:477, R.S.46:1401 et seq., and R.S. 46:1414.1.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Community Services, LR 36:807 (April 2010), amended LR 36:843 (April 2010), amended by the Department of Children and Family Services, Child Welfare Section, LR 36:1463 (July 2010), amended by the Department of Children and Family Services, Division of Programs, Licensing Section, LR 38:977, 984 (April 2012), amended by the Department of Children and Family Services, Licensing Section, LR 43:249 (February 2017), LR 43:1725 (September 2017), amended by the Department of Children and Family Services, Licensing Section, LR 45:519 (April 2019), effective May 1, 2019, LR 46:673 (May 2020), effective June 1, 2020.

§7108. Corrective Action Plans

A. A corrective action plan (CAP) shall be submitted for any and all deficiencies noted by Licensing Section staff regarding any licensing law or standard, or any other required statute, ordinance, or standard. The request for submission of the CAP does not restrict the actions which may be taken by DCFS. If the department does not specify an earlier timeframe for submitting the CAP, the CAP shall be submitted within 10 calendar days from the date of the inspection or receipt of the deficiencies, if mailed or emailed. The CAP shall include a description of how the deficiency will be corrected, the date by which correction(s) shall be completed, and outline the steps the provider plans to take in order to prevent further deficiencies from being cited in these areas, and the plan to maintain compliance with the licensing standards. If the CAP is not sufficient and/or additional information is required, the provider shall be notified and informed to submit additional information within 3 calendar days. If it is determined that all areas of noncompliance or deficiencies have not been corrected, the department may revoke the license.

B. Provider may challenge a specific deficiency or any information within a cited deficiency which the provider contends is factually inaccurate. The provider shall have one opportunity to request a review of a licensing deficiency. A statement of why the deficiency is being disputed and supporting documents (if applicable) shall be submitted with

the corrective action plan within the timeframe specified for the submission of the CAP.

C. The statement of deficiencies for which a review has been requested will not be placed on the internet for viewing by the public until a decision has been reached. As a result of the licensing deficiency review request, a deficiency may be upheld with no changes, the deficiency may be removed, or the deficiency may be upheld and revised to include pertinent information that was inadvertently omitted. Once a decision has been reached, provider will be informed in writing of the decision and the reason for the decision. If the deficiency or information within the deficiency was cited in error or the cited deficiency is revised by the DCFS Licensing Section staff, provider will receive a revised "statement of deficiencies" with the decision letter. If any enforcement action was imposed solely because of a deficiency or finding that has been deleted through the licensing deficiency review process, the action will be rescinded.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:477 and R.S.46:1401 et seq.

HISTORICAL NOTE: Promulgated by the Department of Children and Family Services, Licensing Section, LR 43:257 (February 2017).

§7109. Critical Violations/Fines

A. In accordance with R.S. 46:1430, when a provider is cited for violations in the following areas, the department may at its discretion elect to impose sanctions, revoke a license, or both:

1. §7107.A.5-8 and 14, §7107.D.4.f.v, §7107.E.2.F, §7111.A.2.c.ii, §7111.A.5.b, §7111.B.2.a.ii, §7117.A.14.j, and/or 7124.A. - G.—criminal background check;

2. §7111.A.9.a.i-v, vii, ix, or x—staffing ratios;

3. §7117.F.19—motor vehicle checks;

4. §7111.D.1.a if sections noted in §7111.D.7. also cited or §7111.D.1.b.i. if sections noted in §7111.D.7 also cited or §7111.D.2.—critical incident reporting; and/or

5. §7111.A.9.a.vi, §7111.A.9.a.xi, §7111.A.9.a.xiii-xv, §7111.A.4.c, §7123.B.5, or §7123.B.6—supervision.

B. The option of imposing other sanctions does not impair the right of DCFS to revoke and/or not renew a provider's license to operate if it determines that the violation poses an imminent threat to the health, safety, rights, or welfare of a resident or child of a resident. Only when the department finds that the violation does not pose an imminent threat to the health, safety, rights, or welfare of a resident or child of a resident will the department consider sanctions in lieu of revocation or non-renewal; however, the absence of such an imminent threat does not preclude the possibility of revocation or non-renewal in addition to sanctions, including fines.

C. In determining whether multiple violations of one of the above categories has occurred, both for purposes of this Section and for purposes of establishing a history of non-compliance, all such violations cited during any 24-month period shall be counted, even if one or more of the violations occurred prior to the adoption of the current set of standards. If one or more of the violations occurred prior to adoption of the current set of standards, a violation is deemed to have been repeated if the standard previously violated is substantially similar to the present rule.

D.1. For the first violation of one of the aforementioned categories, if the department does not revoke or not renew the license, the department may issue a formal warning letter noting the department's intent to take administrative action if further violations of the same category occur.

2. The warning letter shall include a directed corrective action plan (CAP) which shall outline the necessary action and timeframe for such action that a provider shall take in order to maintain compliance with the licensing standards. The provider shall acknowledge receipt of the warning letter by submitting a written response to the CAP within 10 calendar days of receipt of the letter. Failure by the provider to submit requested information and/or failure to implement the CAP as evidenced by a repeated violation of the same category of the standards may result in either the assessment of a civil fine, revocation/non-renewal of license, or both.

E. For the second violation of one of the same aforementioned categories within a 24-month period, provider will be assessed a civil fine of up to $250 per day for a violation in each of the aforementioned categories (if same category cited twice) and fined for each day the provider was determined to be out of compliance with one of the aforementioned categories according to the following schedule of fines.

1. The base fine level for all violations shall be $200 per day. From the base fine level, factor in any applicable upward or downward adjustments, even if the adjustment causes the total to exceed $250. If the total fine after all upward and downward adjustments exceeds $250, reduce the fine for the violation to $250 as prescribed by law.

a. If the violation resulted in death or serious physical or emotional harm to a resident or child of a resident, or placed the resident or child of a resident at risk of death or serious physical or emotional harm, increase the fine by $50.

b. If the provider had a previous license revoked for the same critical violation cited, increase the fine by $25.

c. If the critical violation was cited and occurred despite the objective good faith best efforts of licensee to comply, decrease the fine by $25.

d. When the cited critical violation was for a criminal background check not being completed prior to hire as required, but obtained before the individual was on the premises and/or had access to a resident or child of a resident, the fine shall be decreased by $25.

e. When the cited critical violation was for criminal background check not being completed prior to the individual being on the premises and/or having access to a

resident or child of a resident, the fine shall be increased by $25.

f. If the provider exceeds staffing ratios by more than one resident, increase the fine by $25.

g. If the provider failed to meet staffing ratios related to children of residents, increase the fine by $25.

h. If the provider self-reported the incident which caused the critical violation to be cited, decrease the fine by $25.

i. If the provider failed to self-report the incident which caused the critical violation to be cited, increase the fine by $25.

j. If a critical violation for supervision was cited due to residents or children of residents being unsupervised in a vehicle, increase the fine by $25.

k. If a critical violation for supervision was cited due to staff not knowing the whereabouts of residents to which they are assigned, increase the fine by $25.

F. For the third violation of one of the same aforementioned categories within a 24-month period, the provider's license may be revoked.

G. The aggregate fines assessed for violations determined in any consecutive 12-month period shall not exceed $2,000 as prescribed by law. If a critical violation in a different category is noted by DCFS that warrants a fine and the provider has already reached the maximum allowable fine amount that could be assessed by the department in any consecutive 12-month period and the department does not revoke or not renew the license, the department may issue a formal warning letter noting the department's intent to take administrative action if further violations of the same category re-occur. The warning letter shall include a directed CAP which shall outline the necessary action and timeframe for such action that a provider shall take in order to maintain compliance with the licensing standards. The provider shall acknowledge receipt of the warning letter by submitting a written response to the CAP within 10 calendar days of receipt of the letter. Failure by the provider to submit requested information and/or failure to implement the CAP as evidenced by a repeated violation of the same category of the standards may result in revocation/non-renewal of license.

H. Departmental Reconsideration and Appeal Procedure for Fines

1. When a fine is imposed under these standards, the department shall notify the program director or owner by letter that a fine has been assessed due to deficiencies cited at the residential home and the right of departmental reconsideration. The notification may be sent by certified mail or hand delivered to the residential home. If the program director or owner is not present at the residential home, delivery of the written reason(s) for such action may be made to any staff of the residential home. Notice to a staff shall constitute notice to the residential home of such action and the reasons therefore. The letter shall specify the dates and the violation cited for which the fine(s) shall be imposed. Fines are due within 30 calendar days from the date of receipt of the letter unless the provider request a reconsideration of the fine assessment. The provider may request reconsideration of the assessment by asking DCFS for such reconsideration in writing within 10 calendar days from the date of receipt of the letter. A request for reconsideration shall include a copy of the letter from the Licensing Section that notes the reasons for assessment of the fine together with the specific reasons the provider believes assessment of the fine to be unwarranted and shall be mailed to Department of Children and Family Services, Licensing Section, P.O. Box 260036 Baton Rouge, LA 70826. If the provider withdraws the request for reconsideration, the fine is payable within 7 calendar days of the withdrawal or on the original date that the fine was due, whichever is later.

2. The department shall advise the program director or owner by letter of the decision of DCFS after reconsideration and the right to appeal. The notification may be sent by certified mail or hand delivered to the residential home. If the program director or owner is not present at the residential home, delivery of the written decision may be made to any staff of the residential home. Notice to a staff shall constitute notice to the residential home of such action.

a. If DCFS finds that the Licensing Section's assessment of the fine is justified, the provider shall have 15 calendar days from the receipt of the reconsideration letter to appeal the decision to the Division of Administrative Law (DAL). A request for appeal shall include a copy of the letter from the Licensing Section that notes the reasons for assessment of the fine and a copy of the reconsideration decision letter together with the specific areas of the decision the appellant believes to be erroneous and/or the specific reasons the decision is believed to have been reached in error, and shall be mailed to Department of Children and Family Services, Appeals Section, P.O. Box 2944, Baton Rouge, LA 70821-9118.

b. The DCFS Appeals Section shall notify the DAL of receipt of an appeal request. DAL shall conduct a hearing in accordance with the Administrative Procedure Act and shall render a decision. The appellant will be notified by letter from DAL of the decision, either affirming or reversing the department's decision.

c. If the provider has filed a timely appeal and the department's assessment of fines is affirmed by an administrative law judge of the DAL, the fine shall be due within 30 calendar days after mailing notice of the final ruling of the administrative law judge or, if a rehearing is requested, within 30 calendar days after the rehearing decision is rendered. The provider shall have the right to seek judicial review of any final ruling of the administrative law judge as provided in the Administrative Procedure Act. If the appeal is dismissed or withdrawn, the fines shall be due and payable within 7 calendar days of the dismissal or withdrawal. If a judicial review is denied or dismissed, either in district court or by a court of appeal, the fines shall be due

and payable within 7 calendar days after the provider's suspensive appeal rights have been exhausted.

3. If the provider does not appeal within 15 calendar days of receipt of the department's reconsideration decision, the fine is due within 30 calendar days of receipt of the department's reconsideration decision and shall be mailed to Department of Children and Family Services, Licensing Section, P.O. Box 260036 Baton Rouge, LA 70826. If the provider files a timely appeal, the fines shall be due and payable on the date set forth in Subparagraph H.2.c of this Section. If the provider withdraws the appeal, the fine is payable within 7 calendar days of the withdrawal or on the original date that the fine was due, whichever is later.

4. If the provider does not pay the fine within the specified timeframe, the license shall be immediately revoked and the department shall pursue civil court action to collect the fines, together with all costs of bringing such action, including travel expenses and reasonable attorney fees. Interest shall begin to accrue at the current judicial rate on the day following the date on which the fines become due and payable.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1401 et seq.

HISTORICAL NOTE: Promulgated by the Department of Children and Family Services, Licensing Section, LR 43:258 (February 2017), amended LR 43:1725 (September 2017), LR 44:1991 (November 2018), effective December 1, 2018, amended by the Department of Children and Family Services, Licensing Section, LR 45:521 (April 2019), effective May 1, 2019, LR 46:674 (May 2020), effective June 1, 2020.

§7110. Administration and Organization [Formerly §7109]

A. General Requirements

1. Once a residential home provider has been issued a license, the department shall conduct licensing and other inspections at intervals deemed necessary by the department to determine compliance with licensing standards, as well as, other required statutes, laws, ordinances, rules, regulations, and fees. These inspections shall be unannounced.

2. The department may remove any resident, child of a resident, or all residents or children of residents from any facility or agency when it is determined that one or more deficiencies exist within the facility that place the health and well-being of children of residents or residents in imminent danger. The children of residents nor residents shall be returned to the facility until such time as it is determined by the department that the imminent danger has been removed.

3. The provider shall allow representatives of the department in the performance of their mandated duties to inspect all aspects of a program's functioning that impact residents and children of residents and to privately interview any staff member or resident. The department representatives shall be admitted immediately and without delay, and shall be given free access to all relevant files and all areas of a facility, including its grounds. If any portion of a facility is set aside for private use by the facility's owner or staff, department representatives shall be permitted to verify that no residents or children of residents are present in that portion and that the private areas are inaccessible to residents and children of residents. Any area to which residents or children of residents have or have had access is presumed to be part of the facility and not the private quarters of the owner or staff.

4. The provider shall make any information that DCFS requires under the present standards and any information reasonably related to determination of compliance with these standards available to the department. The resident's rights shall not be considered abridged by this standard.

5. The provider accepting any resident from a state other than Louisiana shall show proof of compliance with the terms of the Interstate Compact on Juveniles, the Interstate Compact on the Placement of Children, and the Interstate Compact on Mental Health. Proof of compliance shall include clearance letters from the compact officers of each state involved.

B. Other Jurisdictional Approvals. The provider shall comply and show proof of compliance with all relevant standards, regulations, and requirements established by federal, state, local, and municipal regulatory bodies including initial and annual approval by the following:

1. Office of Public Health, Sanitarian Services;

2. Office of State Fire Marshal;

3. city fire department (if applicable);

4. local governing authority or zoning approval (if applicable); and

5. Department of Education (if applicable).

C. Governing Body. The provider shall have an identifiable governing body with responsibility for and authority over the policies, procedures, and activities of the provider.

1. The provider shall have documents identifying all members of the governing body, their addresses, the term of their membership (if applicable), officers of the governing body (if applicable), and the terms of office of all officers (if applicable).

2. When the governing body of a provider is composed of more than one person, the governing body shall hold formal meetings at least twice a year.

3. When the governing body is composed of more than one person, a provider shall have written minutes of all formal meetings of the governing body and bylaws specifying frequency of meetings and quorum requirements.

D. Responsibilities of a Governing Body. The governing body of the provider shall:

1. ensure the provider's compliance and conformity with the provider's charter;

2. ensure the provider's continual compliance and conformity with all relevant federal, state, local, and municipal laws and standards;

3. ensure the provider is adequately funded and fiscally sound by reviewing and approving the provider's annual budget or cost report;

4. ensure the provider is housed, maintained, staffed and equipped appropriately considering the nature of the provider's program;

5. designate a person to act as program director and delegate sufficient authority to this person to manage the facility;

6. formulate and annually review, in consultation with the program director, written policies and procedures concerning the provider's philosophy, goals, current services, personnel practices and fiscal management;

7. have the authority to dismiss the program director;

8. meet with designated representatives of the department whenever required to do so;

9. inform designated representatives of the department prior to initiating any substantial changes in the program, services, or physical plant of the provider;

10. ensure that the provider establishes a system of business management and staffing which requires maintenance of complete and accurate accounts, books, and records.

E. Authority to Operate. The provider's current Louisiana residential home license shall be on display in a prominent area at the facility, except for facilities operated by a church or religious organization [R.S. 46:1406(D)] that choose to keep the license on file and available upon request. All homes shall operate within the licensed capacity, age range, and/or other specific services designated on the license.

F. Accessibility of Program Director. The program director, or a person authorized to act on behalf of the program director, shall be accessible to provider staff or designated representatives of the department at all times (24 hours per day, 7 days per week).

G. Statement of Philosophy and Goals

1. The provider shall have a written statement of its' residential home philosophy, purpose, program, and goals. The statement shall contain a description of all the services provided to include:

a. the extent, limitation, and scope of the services for which a license is sought;

b. the geographical area to be served; and

c. the ages of residents, ages of children of residents, and types of behaviors to be accepted for placement.

H. House Rules and Regulations. The provider shall have a clearly written list of rules and regulations governing conduct for residents and children of residents in care and shall document that these rules and regulations are made available to each staff member, resident, and, where appropriate, the resident's legal guardian(s).

I. Representation at Hearings. When requested by the placing agency, the provider shall have a representative present at all judicial, educational, or administrative hearings that address the status of a resident or child of a resident in care of the provider. The provider shall ensure that the resident or child of a resident is given an opportunity to be present at such hearings, unless prohibited by the resident's legal guardian or by his/her service plan.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:477 and R.S. 46:1401 et seq.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Community Service, LR 36:810 (April 2010), amended by the Department of Children and Family Services, Licensing Section, LR 43:260 (February 2017).

§7111. Provider Requirements

A. Provider Responsibilities

1. Enrichment Activities. Provider shall assist children of residents and residents at least twice monthly in creating and updating their lifebook. For children of residents and residents that are not developmentally able to participate in the creation and updating of their own lifebook, staff shall create and update for the children and residents.

a. Lifebooks shall be the property of children of residents and residents and shall remain with the child or resident upon discharge.

b. Lifebooks shall be available for review by DCFS.

2. Personnel Requirements

a. The provider shall employ a sufficient number of qualified staff and delegate sufficient authority to such staff to perform the following functions:

i. administrative;

ii. fiscal;

iii. clerical;

iv. housekeeping, maintenance, and food services;

v. direct resident and child of a resident services;

vi. record keeping and reporting;

vii. social service; and

viii. ancillary services.

b. Personnel can work in more than one capacity as long as they meet all of the qualifications of the position and have met the training requirements.

c. The provider that utilizes volunteers shall be responsible for the actions of the volunteers. Volunteers shall:

i. have orientation and training in the philosophy of the program and the needs of residents and children of

residents and methods of meeting those needs prior to working with residents or children of residents;

ii. have documentation of a fingerprint-based satisfactory criminal background check through the FBI as noted in §7124.C or §7124.D, as applicable and required in R.S. 15:587.1 and R.S. 46:51.2;

iii. have a state central registry notification form from Child Welfare as required in §7112;

iv. have three documented reference checks dated within three months prior to beginning volunteer services;

v. have documentation of a signed and dated job description by volunteer.

3. Personnel Qualifications

a. Program Director. The program director shall meet one of the following qualifications:

i. a doctorate degree in a human services field or in administration, business, or a related field;

ii. a master's degree in a human services field or in administration, business, or a related field and one year of work experience in a human services agency;

iii. a bachelor's degree in a human services field or in administration, business, or a related field, and at least two years of work experience in a human services agency;

iv. six years of work experience in a human services field or a combination of undergraduate education and work experience in a human services field for a total of six years. Fifteen credit hours substitute for six months of work experience not to exceed 60 credit hours.

b. Service Plan Manager. The service plan manager shall have a bachelor's degree in a human service field plus a minimum of one year with the relevant population.

c. Documentation of experience for program director and service plan manager shall be verified in writing by previous employer. Documentation of education shall be verified by a copy of the individual's degree or transcript.

d. Direct Care Worker. A direct care worker hired on or after August 1, 2016, shall be at least 21 years of age and have a high school diploma or equivalency and at least two years post-high school job experience.

4. Personnel Job Duties

a. The program director shall be responsible for:

i. implementing and complying with policies and procedures adopted by the governing body;

ii. adhering to all federal and state laws and standards pertaining to the operation of the agency;

iii. addressing areas of non-compliance identified by licensing inspections and complaint inspections;

iv. directing the program;

v. representing the facility in the community;

vi. delegating appropriate responsibilities to other staff including the responsibility of being in charge of the facility during their absence;

vii. recruiting qualified staff and employing, supervising, evaluating, training, and terminating employment of staff;

viii. providing leadership and carrying supervisory authority in relation to all departments of the facility;

ix. providing consultation to the governing body in carrying out their responsibilities, interpreting to them the needs of residents and children of residents, making needed policy revision recommendations, and assisting them in periodic evaluation of the facility's services;

x. supervising the facility's management including building, maintenance, and purchasing;

xi. participating with the governing body in interpreting the facility's need for financial support;

xii. establishing effective communication between staff and residents and children of residents and providing for their input into program planning and operating procedures;

xiii. reporting injuries, deaths, and critical incidents involving residents or children of residents to the appropriate authorities; and

xiv. supervising the performance of all persons involved in any service delivery/direct care to residents or children of residents.

b. The service plan manager shall be responsible for:

i. supervision of the implementation of the resident's service plan;

ii. integration of the various aspects of the resident's program;

iii. recording of the resident's progress as measured by objective indicators and making appropriate changes/modifications;

iv. reviewing quarterly service plan reviews for the successes and failures of the resident's program, including the resident's educational program, with recommendations for any modifications deemed necessary. Designated staff may prepare these reports, however, the service plan manager shall review, sign, and date the reports indicating approval;

v. signing and dating all appropriate documents;

vi. monitoring that the resident receives a review every 30 days of the need for residential placement and ensuring the timely release, whenever appropriate, of the resident to a least restrictive setting; monitoring any extraordinary restriction of the resident's freedom including use of any form of restraint, any special restriction on a resident's communication with others, and any behavior management plan;

vii. asserting and safeguarding the human and civil rights of residents, and children of residents, and their families and fostering the human dignity and personal worth of each resident;

viii. serving as liaison between the resident, provider, family, and community during the resident's admission to and residence in the facility, or while the resident is receiving services from the provider in order to:

(a). assist staff in understanding the needs of the resident and his/her family in relation to each other;

(b). assist staff in understanding social factors in the resident's day-to-day behavior, including staff/resident relationships;

(c). assist staff in preparing the resident for changes in his/her living situation;

(d). help the family to develop constructive and personally meaningful ways to support the resident's experience in the facility, through assistance with challenges associated with changes in family structure and functioning, and referral to specific services, as appropriate;

(e). help the family to participate in planning for the resident's return to home or other community placement; and

(f). supervise and implement the shared responsibility plan regarding resident and child of a resident.

c. The direct care worker shall be responsible for the daily care and supervision of the residents and children of residents in the living group to which they are assigned which includes:

i. protecting children's and residents' rights;

ii. handling separation anxiety and alleviating the stress of a resident or child of a resident in crisis;

iii. modeling appropriate behaviors and methods of addressing stressful situations;

iv. crisis management;

v. behavior intervention and teaching of appropriate alternatives;

vi. training the resident and child of a resident in good habits of personal care, hygiene, eating, and social skills;

vii. protecting the resident and child of a resident from harm;

viii. handling routine problems arising within the living group;

ix. representing adult authority to the residents and children of residents in the living group and exercising this authority in a mature, firm, compassionate manner;

x. enabling the resident or child of a resident to meet his/her daily assignments;

xi. participating in all staff conferences regarding the resident's progress in program evaluation of service plan goals and future planning;

xii. participating in the planning of the facility's program and scheduling such program into the operation of the living group under his/her supervision;

xiii. maintaining prescribed logs of all important events that occur regarding significant information about the performance and development of each resident or child of a resident in the group;

xiv. reporting emergency medical or dental care needs to the administrative staff in a timely manner;

xv. reporting critical incidents to administrative staff in a timely manner; and

xvi. completing duties and responsibilities as assigned regarding residents and children of residents.

5. Contractors

a. Contractors hired to perform work which does not involve any contact with residents or children of residents, shall not be required to have a criminal background check if accompanied at all times by a staff person when residents or children of residents are present in the facility.

b. Contractors hired to perform work which involves contact with residents or children of residents, shall be required to have documentation of a fingerprint-based satisfactory criminal background check through the FBI as required by R.S. 15:587.1 and R.S. 46:51.2 and noted in §7124.E or 7124.F as applicable.

c. All contractors who are unaccompanied by staff with direct or indirect contact with children/youth shall have documentation of a state central registry clearance as required in §7112.

6. Post Licensing Information

a. Providers shall advise residents of the licensing authority of DCFS and that residents may contact the Licensing Section with any unresolved complaints. Providers shall post the current telephone number, email address, and mailing address in an area regularly utilized by residents.

7. Orientation

a. All staff hired effective August 1, 2016 or after, shall complete the DCFS "mandated reporter training" available at dcfs.la.gov within five working days of the staff's date of hire and prior to having sole responsibility for residents or children of residents. Documentation of completion shall be the certificate obtained upon completion of the training.

b. The provider's orientation program shall provide training in the following topics for all staff within one week of the staff's date of hire and prior to having sole responsibility for residents or children of residents:

i. philosophy, organization, program, and practices of the provider;

ii. specific responsibilities of assigned job duties with regard to residents and children of residents;

iii. administrative procedures and programmatic goals;

iv. emergency and safety procedures including medical emergencies;

v. resident rights;

vi. detecting and reporting suspected abuse and neglect;

vii. infection control to include blood borne pathogens;

viii. confidentiality;

ix. reporting and documenting incidents;

x. LGTBQ issues;

xi. implementation of service plans to include a behavior plan, when clinically indicated;

xii. staff and resident grievance procedure;

xiii. rights and responsibilities of residents who have children residing in the facility;

xiv. responsibility of staff with regard to children of residents residing in the facility;

xv. transportation regulations, including modeling of how to properly conduct a visual check of the vehicle and demonstration by staff to program director on how to conduct a visual check;

xvi. the proper use of child safety restraints required by these regulations and state law (see reference sheet for training resources);

xvii. recognizing mental health concerns;

xviii. detecting signs of illness or dysfunction that warrant medical or nursing intervention;

xix. basic skills required to meet the dental and health needs and problems of the residents and children of residents;

xx. prohibited practices;

xxi. behavior management techniques, including acceptable and prohibited practices;

xxii. use of time-out, personal restraints, and seclusion that is to include a practice element in the chosen method performed by a certified trainer for direct care staff;

xxiii. safe self-administration and handling of all medications including psychotropic drugs, dosages, and side effects;

xxiv. working with people with disabilities, attending to the needs of such residents and children of residents in care, including interaction with family members with disabilities; and

xxv. use of specialized services identified in §7117.D.6.

c. The provider shall maintain sufficient information to determine content of training noted in §7111.A.7.b.i-xxv. This information shall be available for review.

d. Documentation of the orientation training shall consist of a statement/checklist in the staff record signed and dated by the staff person and program director or service plan manager, attesting to having received the applicable orientation training and the dates of the orientation training.

e. Effective August 1, 2016, staff in facilities licensed to care for children under age two years or facilities providing services for children of residents shall complete the "reducing the risk of sids in early education and child care" training available at www.pedialink.org. Documentation of completion shall be the certificate obtained upon completion of the training.

f. All direct care staff shall receive certification in adult cardiopulmonary resuscitation (CPR) and first aid within 45 days of employment. Effective August 1, 2016, if residents or children of residents under the age of 10 are accepted into the program, then staff shall also obtain a certificate in infant/child CPR. No staff member shall be left unsupervised with residents or children of residents until he/she has completed all required training. CPR and first aid shall be updated prior to the expiration of the certification as indicated by the American Red Cross, American Heart Association, or equivalent organization. Online-only training is not acceptable.

8. Annual Training

a. The provider shall ensure that all staff receive training on an annual basis in the following topics:

i. administrative procedures and programmatic goals;

ii. emergency and safety procedures including medical emergencies;

iii. resident rights;

iv. detecting and reporting suspected abuse and neglect;

v. infection control to include blood borne pathogens;

vi. confidentiality;

vii. reporting and documenting incidents;

viii. specific responsibilities of assigned job duties with regard to residents and children of residents;

ix. implementation of service plans to include a behavior plan when clinically indicated;

x. staff and resident grievance procedure;

xi. prohibited practices;

xii. recognizing mental health concerns;

xiii. detecting signs of illness or dysfunction that warrant medical or nursing intervention;

xiv. basic skills required to meet the dental and health needs and problems of the residents and children of residents;

xv. behavior management techniques including acceptable and prohibited practices;

xvi. use of time-out, personal restraints, and seclusion which is to include a practice element in the chosen method performed by a certified trainer for direct care staff;

xvii. safe self-administration and handling of all medication including psychotropic drugs, dosages, and side effects;

xviii. rights and responsibilities of residents who have children residing in the facility;

xix. responsibility of staff with regard to children of residents residing in the facility;

xx. working with people with disabilities, attending to the needs of such residents and children of residents in care, including interaction with family members with disabilities;

xxi. use of specialized services identified in §7117.D.6; and

xxii. LGBTQ issues;

xxiii. transportation regulations, including modeling of how to properly conduct a visual check of the vehicle and demonstration by staff to program director on how to conduct a visual check;

xiv. the proper use of child safety restraints required by these regulations and state law (see reference sheet for training resources).

b. Documentation of annual training shall consist of a statement/checklist in the staff record signed and dated by the staff person and program director, attesting to having received the applicable annual training and the dates of the training.

c. The provider shall maintain sufficient information available to determine content of training. This information shall be available for review.

d. All direct care staff shall have documentation of current certification in adult CPR and first aid. Effective August 1, 2016, if residents or children of residents under the age of 10 are accepted into the program, then staff shall also obtain a certificate in infant/child CPR. No staff member shall be left unsupervised with residents or children of residents until he/she has completed all required training. Online-only training is not acceptable.

e. Effective August 1, 2016, all staff currently employed shall complete the DCFS "mandated reporter training" available at dcfs.la.gov within 45 days and shall be updated annually. Documentation of completion shall be the certificate obtained upon completion of the training.

f. Staff in facilities licensed to care for children under age two years or facilities providing services for children of residents shall annually complete the "Reducing the risk of SIDS in early education and child care" training available at www.pedialink.org. Documentation of completion shall be the certificate obtained upon completion of the training.

9. Staffing and Supervision Requirements

a. The provider shall ensure that an adequate number of qualified direct care staff are present with the residents and children of residents as necessary to ensure the health, safety and well-being of residents and children of residents. Staff coverage shall be maintained in consideration of the time of day, the size and nature of the provider, the ages and needs of the residents and children of residents, and shall assure the continual safety, protection, direct care, and supervision of residents and children of residents. In addition to the required number of direct care staff, the provider shall employ a sufficient number of maintenance, housekeeping, administrative, support, and management staff to ensure that direct care staff can provide direct care services.

i. The provider shall have at least one adult staff present for every six residents when residents are present and awake. In addition, there shall be one additional staff person for every six children of residents present. There shall always be a minimum of two staff present when children of residents are on the premises.

ii. The provider shall have at least 1 adult staff present and awake for every 12 residents when residents are present and participating in rest time. Between 9 p.m. and 6 a.m., the ratio of 1 staff to every 12 residents is acceptable only if the residents are in their assigned bedrooms and participating in rest time. In addition, there shall be 1 additional staff person for every 6 children of residents present. There shall always be a minimum of 2 staff present when children of residents are on the premises, regardless of the number of children of residents present.

iii. In addition to required staff, at least one staff person shall be on call in case of emergency.

iv. Contractors (therapists, tutors, etc.) shall not be included in ratio while providing said individualized services to a specific resident(s) or child(ren) of resident(s).

v. Management or other administrative staff may be included in ratio only if they are exclusively engaged in providing supervision of the residents or direct supervision of the children of residents.

vi. Staff are allowed to sleep, during nighttime hours, only if the following are met.

(a). There is a functional security system monitored by an alarm company. Alarms shall be placed on all windows and exterior doors. The security system shall be enabled during nighttime hours and anytime that the staff/house parents are sleeping. Residents shall not be given the security system code.

(b). There shall be a functional monitoring system on all interior resident and children of resident bedroom doors.

vii. When residents or children of residents are away from the facility, staff shall be available and accessible to the residents and children of residents to handle emergencies or perform other necessary direct care functions.

viii. The provider utilizing live-in staff shall have sufficient relief staff to ensure adequate off-duty time for live-in staff.

ix Six or more residents under two years of age shall have an additional direct care worker on duty when the residents are present to provide a staff ratio of 1 staff per every 6 residents under age two, in addition to staff noted in §7111.A.9.a.i.

x. The provider shall not contract with outside sources for any direct care staff, including one-on-one trainers or attendants.

xi. Staff shall be assigned to supervise residents and children of residents whose names and whereabouts that staff person shall know.

xii. When the resident is at the facility with her child, she is responsible for the care and supervision of her own child when not engaged in services or other activities. Staff shall be present and available as a resource and to lend support and guidance to the resident.

xiii. During nighttime hours, staff shall participate in the individual care of a resident and/or assisting a resident in the care of her child.

(a). In bedrooms where a child of a resident resides with their parent, an auditory device shall be required to enable staff to provide assistance to the resident in the care of her child. The monitor shall have an on/off feature which is controlled by the resident, or the devise shall be placed in the resident's room during nighttime hours and removed in the morning allowing the resident privacy.

xiv. Children of residents shall be directly supervised by staff on the playground, in vehicles, and while away from the facility unless the child is accompanied by their own parent.

xv. Staff shall actively and directly supervise residents and/or children of residents engaged in water activities and shall be able to see all parts of the swimming pool, including the bottom.

10. Reasonable and Prudent Parent Standard

a. The provider shall designate in writing at least one on-site staff person as the authorized representative to apply the reasonable and prudent parent standard to decisions involving the participation of a child of a resident who is in foster care or a resident who is in foster care and placed in the facility in age or developmentally appropriate activities. The staff person(s) designated as the authorized representative shall be at the licensed location at all times during the facility's hours of operation. The Licensing Section shall be notified in writing within five calendar days if there is a change to one of the designated representatives.

b. The authorized representative shall utilize the reasonable and prudent parent standard when making any decision involving the participation of a child of a resident who is in foster care or a resident who is in foster care and placed in the facility in age or developmentally appropriate activities.

c. The authorized representative shall receive training or training materials shall be provided on the use of the reasonable and prudent parent standard within one week of hire and prior to having responsibility for residents or children of residents and updated annually. Documentation of the reasonable and prudent parent training shall be maintained. The reasonable and prudent parent training or training materials, as developed or approved by DCFS, shall include, but is not limited to the following topic areas:

i. age- or developmentally-appropriate activities or items;

ii. reasonable and prudent parent standard;

iii. role of the provider and of DCFS; and

iv. allowing for normalcy for the resident or child of a resident while respecting the parent's residual rights.

B. Record Keeping

1. Administrative File

a. The provider shall have an administrative file that shall contain, at a minimum, the following:

i. a written program plan describing the services and programs offered by the provider;

ii. organizational chart of the provider;

iii. all leases, contracts, and purchase-of-service agreements to which the provider is a party;

iv. insurance policies. Every provider shall maintain in force at all times current comprehensive general liability insurance policy, property insurance, and insurance for all vehicles used to transport residents or children of residents. This policy shall be in addition to any professional liability policies maintained by the provider and shall extend coverage to any staff member who provides transportation for any resident or child of a resident in the course and scope of his/her employment;

v. all written agreements with appropriately qualified professionals, or a state agency, for required

professional services or resources not available from employees of the provider;

vi. written documentation of all residents' exits and entrances from facility property. Documentation must include, at a minimum, date, time, destination, name of person with whom resident leaves premises.

2. Staff File

a. The provider shall have a personnel file for each staff that shall contain, at a minimum, the following:

i. the application for employment, including education, training, and experience;

ii. a criminal background check as noted in Section 7124.C or 7124.D. as applicable;

iii. evidence of applicable professional or paraprofessional credentials/certifications according to state law;

iv. written job description signed and dated by individual staff;

v. documentation of three signed and dated reference checks or telephone notes dated within three months prior to hire attesting affirmatively to the individual's character, qualifications, and suitability for the position assigned. References shall be obtained from individuals not related to the staff person;

vi. staff's hire and termination dates;

vii. documentation of current driver's license for operating provider or private vehicles in transporting residents or children of residents;

viii. annual performance evaluations addressing the quality of work to include staff person's interaction with residents and children of residents, family, and other providers. The evaluations are completed by the program director and signed and dated by program director and staff;

ix. personnel action, other appropriate materials, reports, and notes relating to the staff's employment with the facility;

x. state central registry clearance forms as required in §7112.

b. Staff shall have reasonable access to his/her file and shall be allowed to add any written statement he/she wishes to make to the file at any time.

3. Records

a. The provider shall ensure that all entries in records are legible, signed by the person making the entry, and accompanied by the date on which the entry was made.

b. All records shall be maintained in an accessible, standardized order and format, and shall be retained and disposed of according to state and federal law.

c. The provider shall have sufficient space, facilities, and supplies for providing effective record keeping services.

4. Resident Record

a. Active Record. The provider shall maintain a separate active record for each resident and child of a resident. The records shall be current and complete and shall be maintained in the facility in which the resident and child of a resident resides and readily available to facility staff. The provider shall have sufficient space, facilities, and supplies for providing effective storage of records. The records shall be available for inspection by the department.

b. Each resident's record shall contain at least the following information:

i. resident's name, date of birth, Social Security number, previous home address, sex, religion, and birthplace of the resident;

ii. dates of admission and discharge;

iii. other identification data including documentation of court status, legal status or legal custody and who is authorized to give consents;

iv. notification signed and dated from OJJ indicating youth is appropriate for non secure placement;

v. name, address, and telephone number of the legal guardian(s), and parent(s), if appropriate;

vi. name, address, and telephone number of a physician and dentist to be called in an emergency;

vii. resident's authorization for routine and emergency medical care;

viii. the pre-admission screening and admission assessment. If the resident was admitted as an emergency admission, a copy of the emergency admission note shall be included as well;

ix. resident's history including family data, educational background, employment record, prior medical history, and prior placement history;

x. a copy of the physical assessment report;

xi. reports of assessments and of any special problems or precautions;

xii. individual service plan, updates, and quarterly reviews;

xiii. continuing record of any illness, injury, or medical or dental care when it impacts the resident's ability to function or impacts the services he or she needs;

xiv. reports of any incidents of abuse, neglect, or incidents, including use of timeout, personal restraints, or seclusion;

xv. photo of resident updated at least annually;

xvi. a summary of court visits;

xvii. a summary of all visitors and contacts including dates, name, relationship, telephone number, address, the nature of such visits/contacts, and feedback, if indicated from the family;

xviii. a record of all personal property and funds, which the resident has entrusted to the facility;

xix. reports of any resident grievances and the conclusion or disposition of these reports;

xx. written acknowledgment that the resident has received clear verbal explanation and copies of his/her rights, the house rules, written procedures for safekeeping of his/her valuable personal possessions, written statement explaining his/her rights regarding personal funds, and the right to examine his/her record;

xxi. all signed informed consents;

xxii. immunization record within 30 calendar days of admission; and

xxiii. a discharge summary.

xxiv. for residents placed from other states, proof of compliance with the Interstate Compact on Juveniles, the Interstate Compact on the Placement of Children, and the Interstate Compact on Mental Health, when indicated. Proof of compliance shall include clearance letters from the compact officers of each state involved;

c. Each child of a resident's record shall contain at least the following information:

i. child's information form signed and dated by the legal guardian and updated as changes occur, listing:

(a). the child's name, date of birth, sex, date of admission;

(b). name of parent(s) and legal guardian;

(c). name and telephone number of child's physician;

(d). name and telephone number of the child's dentist (if applicable);

(e). any special concerns, including but not limited to allergies, chronic illness, and any special needs of the child (if applicable);

(f). any special dietary needs, restrictions, or food allergies/intolerances (if applicable);

(g). name and telephone number of child's caseworker (if applicable); and

(h). written authorization to care for child from legal guardian;

ii. for residents that retain custody of their children, a written authorization signed and dated by the resident to secure emergency medical treatment in the event the child of the resident is left in the care of staff;

iii. for residents that retain custody of their children, a written authorization signed and dated by the resident noting the first and last names of individuals to whom the child of the resident may be released, including child care facilities, transportation services, or any person or persons who remove the child of the resident from the facility:

(a). the provider shall verify the identity of the authorized person prior to releasing the child of a resident.

d. For residents that retain custody of their children, the provider shall obtain written, informed consent from the resident prior to releasing any information, recordings, or photographs from which the child might be identified, except for authorized state and federal agencies. This one-time written consent shall be obtained from the resident and updated as changes occur.

e. Provider shall have a signed and dated shared responsibility plan between the resident and provider detailing how they will share the responsibilities of meeting the child of the resident's daily needs to include, but not limited to, who will care for the child at certain times and days of the week, who is responsible for supervising, feeding, changing, bathing, tending to the developmental needs of the child, and purchasing items for the child.

f. If the resident does not retain custody of her child, the provider shall have a written individual child care agreement for each child with the person or agency holding custody of the child.

g. If the resident retains custody of her child, the provider shall obtain written authorization signed and dated by the resident to transport her child on a regular basis. Authorization shall include (if staff transports without resident):

i. name of child;

ii. type of service (to and from home, and to and from school to include the name of the school); and

iii. names of individuals or school to whom the child may be released.

5. Staff Communication

a. The provider shall establish and follow procedures to assure adequate communication among staff to provide continuity of services to the residents and children of residents. This system of communication shall include recording and sharing of daily information noting unusual circumstances, individual and group problems of residents and children of residents, and other information requiring continued action by staff. Documentation shall be legible, signed, and dated by staff.

b. A daily log/record for all children of residents, to include first and last name and in/out times shall be maintained. This record shall accurately reflect all children of residents on the premises at any given time.

C. Confidentiality of Records

1. The provider shall have written policies and procedures for the maintenance, security and retention of records. The provider shall specify who shall supervise the maintenance of records, who shall have custody of records, to whom records may be released, and disposition or destruction of closed service record materials. Records shall be the property of the provider, and the provider, as

custodian, shall secure records against loss, tampering, or unauthorized use or access.

2. The provider shall maintain the confidentiality of all records to include all court-related documents, as well as, educational and medical records. Every employee of the provider has the obligation to maintain the privacy of the resident, child of a resident, and his/her family and shall not disclose or knowingly permit the disclosure of any information concerning the resident, child of a resident or his/her family, directly or indirectly, to other residents or children of residents in the facility or any other unauthorized person.

3. When the resident is of majority age and not interdicted, a provider shall obtain the resident's written, informed permission prior to releasing any information from which the resident or his/her family might be identified, except for authorized state and federal agencies.

4. When the resident is a minor or is interdicted, the provider shall obtain written, informed consent from the legal guardian(s) prior to releasing any information from which the resident might be identified, except for accreditation teams and authorized state and federal agencies.

5. When the resident retains custody of her child, the provider shall obtain written, informed consent from the resident prior to releasing any information from which the resident might be identified, except for accreditation teams and authorized state and federal agencies.

6. When the resident does not retain custody of her child, the provider shall obtain written, informed consent from the legal guardian(s) prior to releasing any information from which the child might be identified, except for accreditation teams and authorized state and federal agencies.

7. The provider shall, upon written authorization from the resident or his/her legal guardian(s), make available information in the record to the resident, his/her counsel or the resident's legal guardian(s). If, in the professional judgment of the administration of the provider, it is felt that information contained in the record would be injurious to the health or welfare of the resident, the provider may deny access to the record. In any such case, the provider shall prepare written reasons for denial to the person requesting the record and shall maintain detailed written reasons supporting the denial in the resident's file.

8. The provider may use material from the residents' or children of a residents' records for teaching and research purposes, development of the governing body's understanding, and knowledge of the provider's services, or similar educational purposes, provided names are deleted, other identifying information disguised or deleted, and written authorization is obtained from the resident or his/her legal guardian(s).

D. Incidents

1. Critical and Other Incidents. The provider shall have and adhere to written policies and procedures for documenting, reporting, investigating, and analyzing all incidents and other situations or circumstances affecting the health, safety, or well-being of a resident or child of a resident.

a. The provider shall submit a written report of the following incidents to the Licensing Section within one calendar day, excluding when the incident occurs on a weekend or state holiday: (If the incident occurs on a weekend or state holiday, provider shall submit a written report on the first working day following the weekend or state holiday.)

i. elopement or unexplained absence of a resident or child of a resident;

ii. use of personal restraints with the exception of escorting;

iii. injuries of unknown origin;

iv. evacuation of residents or children of residents;

v. attempted suicide;

vi. serious threat or injury to the health, safety, or well-being of the resident or child of a resident;

vii. injury with substantial bodily harm while in seclusion or during use of personal restraint; or

viii. unplanned hospitalizations, emergency room visits, and emergency urgent care visits.

ix. any other unplanned event or series of unplanned events, accidents, incidents and other situations or circumstances affecting the health, safety, or well-being of a resident or child of a resident.

b. The program director or designee shall:

i. immediately verbally notify the legal guardian of any incident noted in §7111.D.1.a.i-ix.;

ii. immediately verbally notify the appropriate law enforcement authority in accordance with state law;

iii. if requested, submit a final written report of the incident to the legal guardian as soon as possible, but no later than five working days of the incident;

iv. conduct an analysis of the incident and take appropriate corrective steps to prevent future incidents from occurring;

v. maintain copies of any written reports or notifications in the resident's or child of a resident's record;

vi. ensure that a staff person accompanies residents and children of residents when emergency services are needed.

2. The provider shall verbally notify state office licensing management staff immediately in the event of a death and follow up with a written report within one calendar day of the verbal report. If the death occurs on a weekend or State holiday, provider shall verbally notify state

office Licensing management staff as soon as possible on the first working day following the weekend or State holiday and follow up with a written report the same day as verbal notification. The provider shall immediately verbally notify the legal guardian and law enforcement in the event of a death.

3. When a child of a resident residing in the facility with their parent, sustains any of the following, the resident shall be immediately notified:

a. blood not contained in an adhesive strip;

b. injury of the neck and head;

c. eye injury;

d. human bite which breaks the skin;

e. any animal bite;

f. an impaled object;

g. broken or dislodged teeth;

h. allergic reaction skin changes (e.g. rash, spots, swelling, etc.);

i. unusual breathing;

j. symptoms of dehydration;

k. any temperature reading over 101 oral, 102 rectal, or 100 axillary; or

l. any injury or illness requiring professional medical attention.

4. The provider shall not delay seeking care for a resident or child of a resident while attempting to make contact with the resident or legal guardian in a situation which requires emergency medical attention.

5. At a minimum, the incident report for critical and other incidents shall contain the following:

a. date and time the incident occurred;

b. a brief description of the incident;

c. where the incident occurred;

d. names of residents, children of residents, or staff involved in the incident;

e. immediate treatment provided, if any;

f. symptoms of pain and injury discussed with the physician;

g. date and signature of the staff completing the report;

h. name and address of witnesses;

i. date and time the legal guardian, licensing, and, if applicable, law enforcement were notified;

j. any follow-up required;

k. preventive actions to be taken in the future; and

l. documentation of actions taken by the provider regarding staff involved in the incident to include corrective action.

6. A copy of all written reports shall be maintained in the resident's or child of a resident's record.

7. Critical incidents are noted in §7111.D.1.a.iv-vi and ix, §7111.D.2., and §7111.E.2.

E. Abuse and Neglect

1. The provider shall establish and follow a written, abuse/neglect policy that includes the following information:

a. describes communication strategies used by the provider to maintain staff awareness of abuse prevention, current definitions of abuse and neglect, mandated reporting requirements to the Louisiana child protection statewide centralized intake hotline and applicable laws;

b. ensures the resident and child of a resident are protected from potential harassment during the investigation;

c. ensures that the provider shall not delay reporting suspected abuse and/or neglect to the Louisiana child protection statewide centralized intake hotline in an attempt to conduct an internal investigation to verify the abuse/neglect allegations;

d. ensures that the provider shall not require any staff, including unpaid staff, to report suspected abuse/neglect to the provider or management prior to reporting to the child protection statewide hotline 1-855-4LA-KIDS (1-855-452-5437);

e. ensures the staff member involved in the incident does not work directly with the resident or child of a resident involved in the program until an internal investigation is conducted by the facility or the child protection unit staff makes an initial report;

f. ensures the staff member that may have been involved in the incident is not involved in conducting the investigation;

g. ensures that confidentiality of the incident is protected.

2. As mandated reporters, all staff and owners shall report any suspected abuse and/or neglect of a resident or child of a resident whether that abuse or neglect was perpetrated by a staff member, a family member, or any other person in accordance with R.S. 14:403 to the Louisiana child protection statewide centralized intake hotline 1-855-4LA-KIDS (1-855-452-5437). This information shall be posted in an area regularly used by residents.

3. After reporting suspected abuse and/or neglect as required by Louisiana law, provider shall submit a written report to the licensing section immediately or the next working day if the suspected abuse and/or neglect occurred on a weekend or state holiday. At a minimum the report shall contain:

a. name of suspected resident or child victim of alleged child abuse and/or neglect;

b. address and telephone number of where suspected victim may be contacted;

c. name(s) of alleged perpetrator(s);

d. alleged perpetrator(s)' address;

e. nature, extent, and cause of resident's or child of a resident's injury, neglect or condition;

f. current circumstance of resident or child of a resident and if resident or child of a resident is currently in danger;

g. identify names of possible witnesses;

h. identify how incident came to reporter's attention;

i. have other incidents of suspected abuse and/or neglect been reported regarding this resident, child of a resident, or alleged perpetrator;

j. any other pertinent information; and

k. name of person reporting to child protection and time of notification.

F. Grievance Process

1. The provider shall have and adhere to a written policy and procedure, which establishes the right of every resident and the resident's legal guardian(s) to file grievances without fear of retaliation.

2. The written grievance procedure shall include, but not be limited to:

a. a formal process for the resident and the resident's legal guardian(s) to file grievances that shall include procedures for filing verbal, written, or anonymous grievances; and

b. a formal process for the provider to communicate with the resident and/or legal guardian about the grievance within five calendar days of receipt of the grievance.

3. Each resident shall be fully informed of the grievance and complaint policy and procedure and be provided with a written copy. Each resident's record shall contain written acknowledgement signed and dated by program director or designee and resident of understanding and receipt of grievance and complete policies and procedures.

4. The provider shall maintain a log documenting all verbal, written, or anonymous grievances filed.

5. Documentation of any resident's or resident's legal guardian(s)' grievance and the conclusion or disposition of these grievances shall be maintained in the resident's record. This documentation shall include any action taken by the provider in response to the grievance and any follow-up action involving the resident.

G. Data Collection and Quality Improvement

1. The provider shall have and adhere to a written policy and procedure for maintaining a quality improvement program to include:

a. systematic data collection and analysis of identified areas that require improvement;

b. objective measures of performance;

c. at least monthly review of resident's and children of resident's records;

d. quarterly review of incidents and the use of personal restraints and seclusion to include documentation of the date, time, and identification of residents and staff involved in each incident to include a critical analysis of the incidents to note patterns of behavior by specific residents or specific staff; and

e. implementation of plans of action to improve in identified areas.

2. Documentation related to the quality improvement program shall be maintained for at least two years.

H. Family Involvement. The provider shall have and adhere to written strategies to foster ongoing positive communication and contact between children of residents, residents, and their families, their friends, and others significant in their lives.

I. Influenza Notice to Parents

1. In accordance with R.S. 46:1428 providers shall make available to each resident's parent or legal guardian and to each resident aged eighteen or above information relative to the risks associated with influenza and the availability, effectiveness, known contraindications and possible side effects of the influenza immunization. This information shall include the causes and symptoms of influenza, the means by which influenza is spread, the places a parent or legal guardian may obtain additional information and where a resident or youth may be immunized against influenza. The information shall be updated annually if new information on the disease is available. The information shall be provided annually to each licensed facility by the Department of Children and Family Services and shall be made available to parents or legal guardians prior to November 1 of each year. This information shall also be provided to residents with children residing in the facility.

J. Recalled Products

1. The provider shall post the current copy of "The Safety Box" newsletter issued by the Office of the Attorney General as required by chapter 55 of title 46 of R.S. 46:2701-2711. Items listed as recalled in the newsletter shall not be used and shall be immediately removed from the premises.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:477 and R.S. 46:1401 et seq.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Community Service, LR 36:811 (April 2010), amended by the Department of Children and Family Services, Division of Programs, Licensing Section, LR 38:979, 984

(April 2012), LR 42:221 (February 2016), amended by the Department of Children and Family Services, Licensing Section, LR 43:261 (February 2017), LR 43:1725 (September 2017), LR 44:1992 (November 2018), effective December 1, 2018, amended by the Department of Children and Family Services, Licensing Section, LR 45:521 (April 2019), effective May 1, 2019, LR 46:674 (May 2020), effective June 1, 2020.

§7112. State Central Registry

A. State Central Registry Checks for Owners

1. Prior to May 1, 2019, in accordance with R.S. 46:1414.1, all owners and operators affiliated with a facility were required to have on file a state central registry clearance form from child welfare stating that the owners/operators were not listed on the state central registry. No person recorded on any state's child abuse and neglect registry with a justified (valid) finding of abuse or neglect of a child shall be eligible to own, operate, or participate in the governance of a residential home.

a. When an individual is listed on the licensing application or the Secretary of State's website as an officer and does not have access to children/youth in care or children/youth who receive services from the provider and/or is not present at any time on the facility premises when children/youth are present, a DCFS approved attestation form signed and dated by the individual is acceptable in lieu of a state central registry clearance. The attestation form shall be accepted for a period of one year from the date individual signed attestation form.

2. Prior to May 1, 2019, all owners and operators affiliated with a facility were required to have on file a clearance from any other state's child abuse and neglect registry in which the owner/operator resided within the proceeding five years. No person recorded on any state's child abuse and neglect registry with a justified (valid) finding of abuse and/or neglect of a child was eligible to own, operate, or participate in the governance of the residential home.

3. In accordance with R.S. 46:1414.1, an inquiry of the State Central Registry for all owners and operators shall be conducted prior to a license being issued or if currently licensed, prior to the addition of a new board member who meets the definition of an owner. The Louisiana State Central Registry clearance form shall be dated no earlier than 45 days prior to the initial application being received by the Licensing Section or the addition of a new board member who meets the definition of an owner. For states other than Louisiana, clearance forms shall be dated no earlier than 120 days prior to the initial application being received by the Licensing Section or the addition of a new board member who meets the definition of an owner; however, individuals who continue to reside outside of the state of Louisiana but own/operate a residential home in the state of Louisiana, their clearances shall be dated prior to the issuance of the initial license, but no earlier than 45 days prior to the initial application being received by the Licensing Section. No person who is recorded on any state's child abuse and neglect registry with a valid justified (valid) finding of abuse or neglect of a child shall be eligible to own, operate, or participate in the governance of the residential home.

a. When an individual is listed on the licensing application or the Secretary of State's website as an officer and does not have access to children/youth in care or children/youth who receive services from the provider and/or is not present at any time on the facility premises when children/youth are present, a DCFS approved attestation form signed and dated by the individual is acceptable in lieu of a state central registry clearance. The attestation form shall be accepted for a period of one year from the date individual signed the attestation form.

4. If an owner/operator resided in another state within the proceeding five years, provider shall request a check and obtain clearance information from that state's child abuse and neglect registry prior to the license being issued or if currently licensed, prior to the addition of a new board member who meets the definition of an owner. No person who is recorded on any state's child abuse and neglect registry with a justified (valid) finding of abuse and/or neglect of a child shall be eligible to own, operate, or participate in the governance of a residential home.

a. If the provider requests an out-of-state state central registry check and that state advises that they are unable to process the request due to statutory limitations, documentation of such shall be kept on file.

5. Upon notification from child welfare that an owner/operator(s) is not listed on the state central registry, the provider shall maintain on file the child welfare notification that the owner's name does not appear on the registry with a justified (valid) finding of abuse and/or neglect.

6. A request for a state central registry clearance shall be submitted by provider for all owners/operators to child welfare every five years prior to the date noted on the state central registry clearance notification and at any time upon the request of DCFS if reasonable suspicion exists that an individual may be listed on the state central registry.

7. If the owner/operator receives a justified (valid) finding after receiving notification from child welfare that he was not listed on the state central registry and the owner/operator advises the provider prior to his/her appeal rights being exhausted, licensing shall be notified within 24 hours or no later than the next business day, whichever is shorter.

a. The owner/operator shall be directly supervised by a paid staff (employee) of the residential home and at any and all times when he/she is in the presence of a child/youth. The employee responsible for supervising the individual must not be a suspected perpetrator with a justified (valid) determination of abuse and/or neglect.

b. Under no circumstances shall the owner/operator, with the justified (valid) finding of abuse and/or neglect, be left alone and unsupervised with a child/youth pending the official determination from child welfare that the individual is or is not listed on the state central registry.

8. Upon notification to the provider from child welfare that the owner/operator is listed on the state central registry, the owner/operator shall no longer be eligible to own, operate, or participate in the governance of the residential home. The owner/operator may voluntarily withdraw the application for licensure or if he/she chooses not to withdraw the application, the application shall be immediately denied. If the individual with the justified (valid) finding of abuse and/or neglect is a member of the residential home board, the provider shall submit a signed, dated statement to licensing within 24 hours or no later than the next business day indicating that the board member has resigned his position on the board or has been relieved of his position on the board with the effective date of the resignation/removal. Within seven calendar days, provider shall also submit to licensing documentation verifying that the individual's name has been removed from the Secretary of State's website if the residential home is owned/operated by a corporation. After receipt of the statement, the application for licensure may continue to be processed.

9. Any information received or knowledge acquired by a provider that a current owner is a perpetrator of abuse and/or neglect with a justified (valid) determination of abuse or neglect prior to receipt of official notification from child welfare, shall be immediately reported verbally to licensing management staff and followed up in writing no later than the close of business on the next business day. Prior to receipt of the official notification and immediately upon the knowledge that a justified (valid) finding has been issued by DCFS, the individual shall be directly supervised by a paid staff (employee) of the residential home, at any and all times when he/she is present on the premises and/or is in the presence of a child/youth. The employee responsible for supervising the individual must not be a suspected perpetrator with a justified (valid) determination of abuse and/or neglect. Under no circumstances shall the individual with the valid (justified) finding of abuse and/or neglect be left alone and unsupervised with a child/youth pending the official determination from child welfare that the individual is or is not listed on the state central registry.

10. State central registry clearances are not transferable from one owner to another.

B. State Central Registry Checks for Staff and Volunteers

1. Prior to employment, staff record shall contain a state central registry clearance form indicating that the staff (paid, non-paid, and volunteers) person is not listed on the state central registry with a justified finding of child abuse and/or neglect.

a. Prior to May 1, 2019, all staff (paid, non-paid, and volunteers) were required to have on file a state central registry clearance form from child welfare noting that the staff (paid, non-paid, and volunteers) person is not listed on the state central registry in accordance with R.S. 46:1414.1. No person who is recorded on any state's child abuse and neglect registry with a valid (justified) finding of abuse and/or neglect shall be eligible for employment in a licensed residential home.

b. Prior to May 1, 2019, all staff (paid, non-paid, and volunteers) were required to have on file a clearance from any other state's child abuse and neglect registry in which the staff (paid, non-paid, and volunteers) person resided within the proceeding five years. No person who is recorded on any state's child abuse and neglect registry with a valid (justified) finding of abuse and/or neglect shall be eligible for employment in a licensed residential home.

c. In accordance with R.S. 46:1414.1, an inquiry of the State Central Registry for all staff (paid, non-paid and volunteers) shall be conducted prior to employment being offered to a potential hire. Staff (paid, non-paid, and volunteers) persons who have resided in another state within the proceeding five years, provider shall request a check and obtain State Central Registry clearance from that state's child abuse and neglect registry. Louisiana State Central Registry clearance forms shall be dated no earlier than 45 days prior to the staff (paid, non-paid, and volunteers) being present on the premises or having access to residents and/or children of residents. Other states' State Central Registry clearance forms shall be dated no earlier than 120 days prior to the staff (paid, non-paid, and volunteers) being present on the premises or having access to residents and/or children of residents; however, individuals who continue to reside outside of the state of Louisiana and volunteer with and/or work for a licensed provider in the state of Louisiana, their clearances shall be dated no earlier than 45 days prior to hire and/or having access to residents and/or children of residents. No person who is recorded on any state's child abuse and neglect registry with a valid (justified) finding of abuse and/or neglect shall be eligible for employment in a licensed residential home.

i. If the provider requests an out-of-state state central registry check and that state advises that they are unable to process the request due to statutory limitations, documentation of such shall be kept on file.

d. Upon notification from child welfare that the staff (paid, non-paid, and volunteers) is not listed on the state central registry, the provider shall maintain on file the state central registry clearance form noting that the staff's (paid, non-paid, and volunteers) name does not appear on the registry with a justified (valid) finding of abuse and/or neglect. A request shall be submitted to child welfare every five years for staff (paid, non-paid, and volunteers) prior to the issue date noted on the state central registry clearance form and at any time upon the request of DCFS if reasonable suspicion exists that a staff (paid, non-paid, and volunteers) may be listed on the state central registry.

e. If after the initial state central registry clearance form is received by provider from child welfare noting that the staff (paid, non-paid, and volunteers) is not listed on the state central registry and due to a new valid finding, the staff (paid, non-paid, and volunteers) receives a subsequent notice that he/she is listed on the state central registry (issued after the provider was licensed) and advises the provider of the new information prior to their appeal rights being exhausted, licensing shall be notified within 24 hours or no later than the next business day, whichever is shorter. The staff (paid,

non-paid, and volunteers) with the valid (justified) finding of abuse and/or neglect shall be directly supervised by another paid staff (employee) of the residential home, at any and all times when he/she is present on the premises and/or is in the presence of a child/youth. The employee responsible for supervising the individual shall not be suspected to be a perpetrator with a justified (valid) determination of abuse and/or neglect. Under no circumstances shall the staff (paid, non-paid, and volunteers) with the valid (justified) finding of abuse and/or neglect be left alone and unsupervised with a child/youth pending the official determination from child welfare that the individual is or is not listed on the state central registry.

f. Upon notification to the provider from child welfare that the staff (paid, non-paid, and volunteers) is listed on the state central registry, the staff (paid, non-paid, and volunteers) shall no longer be eligible for employment with the residential home. The provider shall submit a signed, dated statement to licensing within 24 hours, but no later than the next business day indicating that the staff (paid, non-paid, and volunteers) with the valid (justified) finding of abuse and/or neglect has been terminated. If this statement is not received by licensing within the aforementioned timeframe, the application shall be denied or license shall be immediately revoked.

g. Any information received or knowledge acquired by the provider that a current staff (paid, non-paid and volunteer) is a perpetrator of abuse and/or neglect with a justified (valid) determination of abuse or neglect prior to receipt of official notification from child welfare, shall be immediately reported verbally to licensing management staff and followed up in writing no later than the close of business on the next business day. Prior to receipt of the official notification and immediately upon the knowledge that a justified (valid) finding has been issued by DCFS, the individual shall be directly supervised by a paid staff (employee) of the residential home, at any and all times when he/she is present on the premises and/or is in the presence of a child/youth. The employee responsible for supervising the individual must not be suspected to be a perpetrator with a justified (valid) determination of abuse and/or neglect. Under no circumstances shall the individual with the valid (justified) finding of abuse and/or neglect be left alone and unsupervised with a child/youth pending the official determination from child welfare that the individual is or is not listed on the state central registry.

h. State central registry clearances are not transferable from one owner to another.

C. State Central Registry Checks for Contractors

1. Contractors who provide services to children/youth unaccompanied by paid staff or have access to children/youth unaccompanied by a paid staff shall have on file at the facility a state central registry clearance form which indicates that the contractor is not listed on any State Central registry with a valid finding of child abuse and/or neglect.

a. Prior to May 1, 2019, all contractors providing services to the residential home were required to have on file a state central registry clearance form from child welfare that the contractor is not listed on the state central registry in accordance with R.S. 46:1414.1. No person who is recorded on any state's child abuse and neglect registry with a valid (justified) finding of abuse and/or neglect shall be eligible for employment or provide services in a licensed residential home.

b. Prior to May 1, 2019 , all contractors providing services to the residential home were required to have on file a clearance from any other state's child abuse and neglect registry in which the contractor resided within the proceeding five years. No person who is recorded on any state's child abuse and neglect registry with a valid (justified) finding of abuse and/or neglect shall be eligible for employment or provide services in a licensed residential home.

c. For individuals who have resided in another state within the proceeding five years, provider shall request a check and obtain clearance information from that state's child abuse and neglect registry prior to providing services or having access to children/youth.

i. If the provider requests an out-of-state state central registry check and that state advises that they are unable to process the request due to statutory limitations, documentation of such shall be kept on file.

d. Louisiana State Central Registry clearance forms shall be dated no earlier than 45 days prior to the individual providing services or having access to residents and/or children of residents. Other states' State Central Registry clearance information shall be dated no earlier than 120 days prior to the individual providing services or having access to children/youth; however, individuals who continue to reside outside of the state of Louisiana and provide services for and/or work for a licensed provider in the state of Louisiana, their clearances shall be dated no earlier than 45 days prior to hire and/or having access to residents and/or children of residents. No person who is recorded on any state's child abuse and neglect registry with a valid (justified) finding of abuse and/or neglect shall be eligible for employment in a licensed residential home.

e. Upon notification from child welfare that the individual is not listed on the state central registry, the provider shall maintain on file the state central registry clearance indicating that the individual's name does not appear on the registry with a justified (valid) finding of abuse and/or neglect. No person who is recorded on any state's child abuse and neglect registry with a valid (justified) finding of abuse and/or neglect shall be eligible to provide services in a licensed residential home.

f. A request shall be submitted to child welfare every five years for contractors prior to the issue date noted on the state central registry clearance form and at any time upon the request of DCFS if reasonable suspicion exists that a staff may be listed on the state central registry.

g. If after the initial state central registry clearance form is received by provider from child welfare noting that the individual is not listed on the state central registry and due to a new valid finding, the contractor receives a subsequent notice that he/she is listed on the state central registry (issued after the provider was licensed) and advises the provider of the new information prior to their appeal rights being exhausted, licensing shall be notified within 24 hours or no later than the next business day, whichever is shorter. The individual with the valid (justified) finding of abuse and/or neglect shall be directly supervised by a paid staff (employee) of the residential home at any and all times when he/she present on the premises and/or is in the presence of a child/youth. The employee responsible for supervising the individual must not be suspected to be a perpetrator with a justified (valid) determination of abuse and/or neglect. Under no circumstances shall the individual with the valid (justified) finding of abuse and/or neglect be left alone and unsupervised with a child/youth pending the official determination from child welfare that the individual is or is not listed on the state central registry.

h. Upon notification to the provider from child welfare that the contractor is listed on the state central registry, the individual shall no longer be eligible to provide services for the residential home. The provider shall submit a signed, dated statement to licensing within 24 hours or no later than the next business day indicating that the individual with the valid (justified) finding of abuse and/or neglect has been relieved of his duties with the residential home with the effective date of termination of services. If this statement is not received by licensing within the aforementioned timeframe, the license shall be immediately revoked.

i. Any information received or knowledge acquired by the provider that a current contractor is a perpetrator of abuse and/or neglect with a justified (valid) determination of abuse or neglect prior to receipt of official notification from child welfare, shall be immediately reported verbally to licensing management staff and followed up in writing no later than the close of business on the next business day. Prior to receipt of the official notification and immediately upon the knowledge that a justified (valid) finding has been issued by DCFS, the individual shall be directly supervised by a paid staff (employee) of the residential home, at any and all times when he/she is present on the premises and/or is in the presence of a child/youth. The employee responsible for supervising the individual must not be suspected to be a perpetrator with a justified (valid) determination of abuse and/or neglect. Under no circumstances shall the individual with the valid (justified) finding of abuse and/or neglect be left alone and unsupervised with a child/youth pending the official determination from child welfare that the individual is or is not listed on the state central registry.

j. State central registry clearances are not transferable from one owner to another.

D. Reasonable Suspicion

1. Any information received or knowledge acquired by the provider that a current owner, contractor, volunteer and/or staff, is a perpetrator of abuse and/or neglect after October 1, 2018, with a justified (valid) determination of abuse and/or neglect prior to receipt of official notification from Child Welfare, shall be verbally reported to Licensing management staff immediately and followed up in writing no later than the close of business on the next business day. Prior to receipt of the official notification and immediately upon the knowledge that a justified (valid) finding has been issued by DCFS, the individual shall be directly supervised by a paid staff (employee) of the residential home, at any and all times when he/she is present on the premises and/or is in the presence of a child/youth. The employee responsible for supervising the individual shall not be suspected to be a perpetrator with a justified (valid) determination of abuse and/or neglect. Under no circumstances shall the individual with the valid (justified) finding of abuse and/or neglect be left alone and unsupervised with a child/youth pending the official determination from Child Welfare that the individual is or is not listed on the state central registry.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1414.1.

HISTORICAL NOTE: Promulgated by the Department of Children and Family Services, Licensing Section, LR 45:521 (April 2019), effective May 1, 2019, LR 46:674 (May 2020), effective June 1, 2020.

§7113. Admission and Discharge

A. Admission

1. Policies and Procedures

a. The provider shall have and adhere to written policies and procedures that shall include, at a minimum, the following information regarding an admission to the facility:

i. the application process and the possible reasons for rejection of an application;

ii. pre-admission screening assessment;

iii. the age and sex of residents and children of residents to be served;

iv. the needs, problems, situations, or patterns best addressed by the provider's program;

v. criteria for admission;

vi. authorization for care of the resident and child of a resident;

vii. authorization to obtain medical care for the resident and child of a resident;

viii. criteria for discharge;

ix. procedures for insuring that placement within the program are the least restrictive alternative, appropriate to meet the resident's needs.

b. No resident shall be admitted from another state unless the provider has first complied with all applicable provisions of the Interstate Compact on Juveniles, the Interstate Compact on Placement of Children, and the Interstate Compact on Mental Health. Proof of compliance

shall be obtained prior to admission and shall be kept in the resident's file.

c. When refusing admission to a resident or child of a resident, the provider shall notify the referring party of the reason for refusal of admission in writing. If his/her parent(s) or legal guardian(s) referred the resident, he/she shall be provided written reasons for the refusal. Copies of the written reasons for refusal of admission shall be kept in the provider's administrative file.

2. Pre-Admission Screening

a. The provider shall receive an assessment of the applicant from the placing agency prior to admission that identifies services that are necessary to meet the resident's needs and verifies that the resident cannot be maintained in a less restrictive environment within the community. This assessment shall be maintained in the resident's record. The provider shall conduct the pre-admission screening within 24 hours of admission to assess the applicant's needs and appropriateness for admission and shall include the following:

i. current health status and any emergency medical needs, mental health, and/or substance abuse issues;

ii. allergies;

iii. chronic illnesses or physical disabilities;

iv. current medications and possible side effects;

v. any medical illnesses or condition that would prohibit or limit the resident’s activity or behavior plan;

vi. proof of legal custody or individual placing agency agreement;

vii. other therapies or ongoing treatments;

viii. family information; and

ix. education information.

b. Information gathered from the preadmission screening shall be confirmed with resident and legal guardian (if applicable).

3. Admission Assessment

a. An admission assessment shall be completed or obtained within three business days of admission to determine the service needs and preferences of the resident. This admission assessment shall be maintained in the resident's record. Information gathered from the pre-admission screening and the admission assessment shall be used to develop the interim service plan for the resident.

B. Service Plan

1. Within 15 days of admission, the provider, with input from the resident, his/her parents, if appropriate and legal guardian shall develop an interim service plan using information gathered from the pre-admission screening and the admission assessment. This interim service plan shall include:

a. the services required to meet the resident's needs;

b. the scope, frequency, and duration of services;

c. monitoring that will be provided; and

d. who is responsible for providing the services, including contract or arranged services.

2. Within 30 days of admission, the provider shall have documentation that a resident has an individual service plan developed that is comprehensive, time-limited, goal-oriented, and addresses the needs of the resident. The service plan shall include the following components:

a. a statement of goals to be achieved for the resident and his/her family;

b. plan for fostering positive family relationships for the resident, when appropriate;

c. schedule of the daily activities including training/education for residents and recreation to be pursued by the program staff and the resident in attempting to achieve the stated goals;

d. any specific behavior management plan:

i. the provider shall obtain or develop, with the participation of the resident and his/her legal guardian or family, an individualized behavior management plan for each resident receiving service. Information gathered from the pre-admission screening and the admission assessment will be used to develop the plan. The plan shall include, at a minimum, the following:

(a). identification of the resident’s triggers;

(b). the resident’s preferred coping mechanisms;

(c). techniques for self-management;

(d). anger and anxiety management options for calming;

(e). a review of previously successful intervention strategies;

(f). a summary of unsuccessful behavior management strategies;

(g). identification of the resident’s specific targeted behaviors;

(h). behavior intervention strategies to be used;

(i). the restrictive interventions to be used, if any;

(j). physical interventions to be used, if any; and

(k). specific goals and objectives that address target behaviors requiring physical intervention;

e. any specialized services provided directly or arranged for will be stated in specific behavioral terms that permit the problems to be assessed and methods for insuring their proper integration with the resident's ongoing program activities;

f. any specific independent living skills needed by the resident which will be provided or obtained on behalf of the resident by the facility staff;

g. overall goals and specific objectives that are time limited;

h. methods for evaluating the resident's progress;

i. use of community resources or programs providing service or training to that resident, and shall involve representatives of such services and programs in the service planning process whenever feasible and appropriate. Any community resource or program involved in a service plan shall be appropriately licensed or shall be a part of a reputable program;

j. any restriction to residents' "rights" deemed necessary to the resident's individual service plan. Any such restriction shall be expressly stated in the service plan, shall specifically identify the right infringed upon, and the extent and duration of the infringement, and shall specify the reasons such restriction is necessary to the service plan, and the reasons less restrictive methods cannot be employed;

k. goals and preliminary plans for discharge;

l. identification of each person responsible for implementing or coordinating implementation of the plan;

m. mental health screening; and

n. developmental and psychological assessments.

3. The service plan shall be developed by a team including, but not limited to, the following:

a. service plan manager;

b. representatives of the direct care staff working with the resident on a daily basis;

c. the resident;

d. the resident's parent(s), if indicated;

e. the resident’s legal guardian(s); and

f. any other person(s) significantly involved in the resident's care on an ongoing basis.

4. All team participants shall sign and date the completed service plan.

5. The service plan shall be monitored by the team on an ongoing basis to determine its continued appropriateness and to identify when a resident's condition or preferences have changed. A team meeting shall be held at least quarterly. The quarterly review shall be signed and dated by all team participants.

6. The provider shall ensure that all persons working directly with the resident are appropriately informed of the service plan and have access to information from the resident's records that is necessary for effective performance of the employee's assigned tasks.

7. The provider shall document that the resident, parent(s), where applicable, and the legal guardian have been invited to participate in the planning and quarterly review process. When they do not participate, the provider shall document the reasons for nonparticipation.

8. All service plans including quarterly reviews shall be maintained in the resident’s record.

C. Discharge

1. The provider shall have a written policy and procedure for all discharges. The discharge procedure shall include at least the following:

a. projected date of discharge;

b. responsibilities of each party (provider, resident, family) with regard to the discharge and transition process;

c. transfer of any pertinent information regarding the resident's stay at the facility; and

d. follow-up services, if any and the responsible party.

2. Emergency discharges initiated by the provider shall take place only when the health and safety of a resident or staff might be endangered by the resident's further stay at the facility. The provider shall have a written report detailing the circumstances leading to each unplanned discharge within seven calendar days of the discharge. The discharge summary is to be kept in the resident's record and shall include:

a. the name and home address of the resident, the resident's parent(s), where appropriate, and the legal guardian(s);

b. the name, address, and telephone number of the provider;

c. the reason for discharge and, if due to resident's unsuitability for provider's program, actions taken to maintain placement;

d. a summary of services provided during care including medical, dental, and health services;

e. a summary of the resident's progress and accomplishments during care; and

f. the assessed needs that remain to be met and alternate service possibilities that might meet those needs.

3. When a discharge is planned, the provider shall compile or obtain a complete written discharge summary within seven days of discharge. The discharge summary is to be kept in the resident's record and shall include:

a. the name and home address of the resident, the resident's parent(s), where appropriate, and the legal guardian(s);

b. the name, address, and telephone number of the provider;

c. the reason for discharge and, if due to resident's unsuitability for provider's program, actions taken to maintain placement;

d. a summary of services provided during care including medical, dental, and health services;

e. a summary of the resident's progress and accomplishments during care; and

f. the assessed needs that remain to be met and alternate service possibilities that might meet those needs.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:477 and R.S. 46:1401 et seq.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Community Service, LR 36:818 (April 2010), amended by the Department of Children and Family Services, Division of Programs, Licensing Section, LR 38:984 (April 2012), amended by the Department of Children and Family Services, Licensing Section, LR 43:272 (February 2017).

§7115. Resident Protection

A. Rights

1. Provider Responsibility

a. The provider shall have written policies and procedures that ensure each resident's and child of a resident's rights are guaranteed and protected.

b. None of the resident's rights shall be infringed upon or restricted in any way unless such restriction is necessary and indicated in the resident's individual service plan. When individual rights restrictions are implemented, the provider shall clearly explain and document any restrictions or limitations on those rights, the reasons that make those restrictions necessary in the resident's individual service plan and the extent and duration of those restrictions. The documentation shall be signed by provider staff, the resident, and the legal guardian(s) or parent(s), if indicated. No service plan shall restrict the access of a resident to legal counsel or restrict the access of state or local regulatory officials to a resident.

c. Residents and children of residents with disabilities have the rights guaranteed to them under the Americans with Disabilities Act (ADA), 42 USC §12101 et seq., and regulations promulgated pursuant to the ADA, 28 CFR Parts 35 and 36 and 49 CFR Part 37; section 504 of the Rehabilitation Act of 1973, as amended, 29 USC §794, and regulations promulgated pursuant thereto, including 45 CFR Part 84. These include the right to receive services in the most integrated setting appropriate to the needs of the individual; to obtain reasonable modifications of practices, policies, and procedures where necessary (unless such modifications constitute a fundamental alteration of the provider's program or pose undue administrative burdens); to receive auxiliary aids and services to enable equally effective communication; to equivalent transportation services; and to physical access to a provider's facilities.

2. Privacy

a. Residents and children of residents have the right to personal privacy and confidentiality. Any records and other information about the resident or child of a resident shall be kept confidential and released only with the legal guardian's expressed written consent or as required by law.

b. A child of a resident shall not be photographed or recorded without the express written consent of the resident or the child's legal guardian(s). A resident shall not be photographed or recorded without the express written consent of the resident and the resident's legal guardian(s). All photographs and recordings shall be used in a manner that respects the dignity and confidentiality of the child of the resident and resident.

c. Residents nor children of residents shall participate in research projects without the express written consent of the resident, child of the resident, and the legal guardian(s).

d. Residents nor children of residents shall participate in activities related to fundraising and publicity without the express written consent of the resident, child of the resident, and the legal guardian(s).

3. Contact with Family and Collaterals

a. A child of a resident and resident have the right to consult freely and have visits with his/her family (including but not limited to his or her mother, father, grandparents, brothers, and sisters), legal guardian(s) and friends subject only to reasonable rules. Special restrictions shall be imposed only to prevent serious harm to the child of a resident or resident. The reasons for any special restrictions shall be recorded in the child of the resident's record or resident's service plan, as applicable and explained to the child of the resident, resident, and his or her family. The service plan manager shall review the special restrictions every 30 days and, if restrictions are renewed, the reasons for renewal shall be recorded in the child of the resident's record or resident's service plan, as applicable. Home visits shall be approved by the legal guardian.

b. A child of a resident and resident have the right to telephone communication. The provider shall allow children of residents and residents to receive and place telephone calls in privacy subject only to reasonable rules and to any specific restrictions in the child of the resident's record or resident's service plan, as applicable. The service plan manager shall formally approve any restriction on telephone communication in a child of the resident's record or resident's service plan, as applicable. The service plan manager shall review the special restrictions every 30 days and, if restrictions are renewed, the reasons for renewal shall be recorded in the child of the resident's record or resident's service plan, as applicable. The cost for long distance calls shall not exceed the usual and customary charges of the local phone company provider. There shall be no restrictions on communication between a child of a resident and their legal counsel.

c. A child of a resident and resident have the right to send and receive mail. The provider shall allow children of residents and residents to receive mail unopened, uncensored, and unread by staff unless contraindicated in the child of a resident's record or resident's service plan, as applicable. The service plan manager shall review this restriction every 30 days. No service plan or record shall restrict the right to write letters in privacy and to send mail

unopened, uncensored, and unread by any other person. Correspondence from a child of a resident's or resident's legal counsel shall not be opened, read, or otherwise interfered with for any reason. Children of residents and residents shall have access to all materials necessary for writing and sending letters and when necessary, shall receive assistance.

d. Children of residents and residents have the right to consult freely and privately with legal counsel, as well as, the right to employ legal counsel of their choosing.

e. Children of residents and residents have the right to communicate freely and privately with state and local regulatory officials.

4. Safeguards

a. Residents and children of residents have the right to file grievances without fear of reprisal as provided in the grievances section of these standards.

b. Residents and children of residents have the right to be free from mental, emotional, and physical abuse and neglect and be free from chemical or mechanical restraints. Any use of personal restraints shall be reported to the legal guardians(s).

c. Residents and children of residents have the right to live within the least restrictive environment possible in order to retain their individuality and personal freedom.

5. Civil Rights

a. Residents' nor children of residents' civil rights shall be abridged or abrogated solely as a result of placement in the provider's program.

b. A resident nor child of a resident shall be denied admission, segregated into programs, or otherwise subjected to discrimination on the basis of race, color, religion, national origin, sexual orientation, physical limitations, political beliefs, or any other non-merit factor. Facilities must comply with the requirements of the Americans with Disabilities Act, 42 USC §12101 et seq. (ADA).

6. Participation in Program Development

a. Residents and children of residents have the right to be treated with dignity in the delivery of services.

b. Residents and children of residents have the right to receive preventive, routine, and emergency health care according to individual needs which will promote his or her growth and development.

c. Residents and children of residents have the right to be involved, as appropriate to age, development, and ability in assessment and service planning.

d. Residents and children of residents have the right to consult with clergy and participate in religious services in accordance with his/her faith, but shall not be forced to attend religious services or punished for not participating in religious services. The provider shall have and adhere to a written policy of its religious orientation, particular religious practices that are observed, and any religious restrictions on admission. This description shall be provided to the resident, child of a resident, and the legal guardian(s). When appropriate, the provider shall determine the wishes of the legal guardian(s) with regard to religious observance and make every effort to ensure that these wishes are carried out. The provider shall, whenever possible, arrange transportation and encourage participation by those residents or children of residents who desire to participate in religious activities in the community.

7. Acknowledgement of Resident

a. Each resident shall be fully informed of all rights noted in Paragraphs A.1-6 of this Section and of all rules and regulations governing residents' conduct and responsibilities, as evidenced by written acknowledgment, at the time of admission of the receipt of a copy of resident's rights, and when changes occur. Each resident's record shall contain a copy of the written acknowledgment, which shall be signed and dated by the program director, or designee, and the resident.

b. Each resident shall be informed of how and where to safely evacuate the facility during an emergency situation. The acknowledgement of understanding shall be signed and dated by the resident and program director, or designee.

B. Prohibited Practices

1. The provider shall have a written list of prohibited practices by staff members. Staff members shall not be allowed to engage in any of the prohibited practices. Staff shall not promote or condone these prohibited practices between residents or children of residents. This list shall include the following:

a. use of a chemical or mechanical restraint;

b. corporal punishment such as slapping, spanking, paddling or belting;

c. marching, standing, or kneeling rigidly in one spot;

d. any kind of physical discomfort except as required for medical, dental or first aid procedures necessary to preserve the resident's or child of a resident's life or health;

e. denial or deprivation of sleep or nutrition except under a physician's order;

f. denial of access to bathroom facilities;

g. verbal abuse, ridicule, or humiliation, shaming or sarcasm;

h. withholding of a meal, except under a physician's order;

i. requiring a resident or child of a resident to remain silent for a long period of time;

j. denial of shelter, warmth, clothing, or bedding;

k. assignment of harsh physical work;

l. punishing a group of residents or children of residents for actions committed by one or a selected few; a group activity shall not be cancelled for the entire group, prior to the activity, due to the behavior of one or more individuals;

m. withholding family visits or communication with family;

n. extensive withholding of emotional response;

o. denial of school services or denial of therapeutic services;

p. other impingements on the basic rights of children of residents or residents for care, protection, safety, and security;

q. organized social ostracism, such as codes of silence;

r. pain compliance, slight discomfort, trigger points, pressure points, or any pain inducing techniques;

s. hyperextension of any body part beyond normal limits;

t. joint or skin torsion;

u. pressure or weight on head, neck, throat, chest, lungs, sternum, diaphragm, back, or abdomen, causing chest compression;

v. straddling or sitting on any part of the body;

w. any position or maneuver that obstructs or restricts circulation of blood or obstructs an airway;

x. any type of choking;

y. any type of head hold where the head is used as a lever to control movement of other body parts;

z. any maneuver that involves punching, hitting, poking, pinching, or shoving;

aa. separation of a resident and her child as a means of punishment;

bb. punishment for actions over which the child has no control such as bedwetting, enuresis, encopresis, or incidents that occur in the course of toilet training activities;

cc. use of threats or threatening an individual with a prohibited action even though there is/was no intent to follow through with the threat;

dd. cruel, severe, unusual, degrading, or unnecessary punishment;

ee. yelling, yanking, shaking;

ff. requiring a child of a resident or resident to exercise as punishment or placing a child of a resident or resident into uncomfortable positions;

gg. exposing a child of a resident or resident to extreme temperatures or other measures producing physical pain;

hh. putting anything in a resident's or child of a resident's mouth as a means of punishment;

ii. using abusive or profane language, including but not limited to telling a child of a resident to "shut up"; or

jj. any technique that involves covering of the mouth, nose, eyes or any part of the face.

2. The resident and child of a resident, where appropriate, and the resident's legal guardian(s) shall receive a list of the prohibited practices. There shall be documentation signed and dated acknowledging receipt of the list of prohibited practices by the resident and, where appropriate, the child of the resident and resident's legal guardian(s) in the record.

3. A list of prohibited practices shall be posted in the facility in an area regularly utilized by residents.

C. Behavior Support and Intervention Program

1. The provider shall have and adhere to a behavior support and intervention program that:

a. describes the provider's behavior support philosophy;

b. safeguards the rights of residents, children of residents, families, and staff;

c. governs allowed and prohibited practices; and

d. designates oversight responsibilities.

2. The provider shall have and adhere to written policies and procedures that include, but are not limited to:

a. a behavior support and intervention model consistent with the provider's mission;

b. proactive and preventive practices;

c. development of behavior support plans for residents and children of residents;

d. prohibited behavior intervention practices;

e. restrictive practices, if any, that are allowed and circumstances when they can be used;

f. physical interventions to be used, if any;

g. informed consent of legal guardians for use of behavior support and interventions; and

h. oversight process.

3. An informed consent shall be obtained from the legal guardian for the use of any restrictive intervention.

4. There shall be a system in place that monitors the effectiveness of behavior support and interventions implemented.

5. All persons implementing physical interventions shall be trained and certified in behavior management under nationally accredited standards.

6. Participation by the resident, family, and the resident's legal guardian(s) in the development and review of

the behavior support plan shall be documented in the resident's record.

7. There shall be documentation of written consent to the behavior support plan by the resident and the resident's legal guardian(s) in the resident's record.

D. Time-Out

1. The provider shall have and adhere to a written policy and procedure that governs the use of time-out to include the following:

a. any room used for time out shall be unlocked and the resident or child of a resident shall, at all times, be free to leave if he or she chooses;

b. time-out procedures shall be used only when less restrictive measures have been used without effect. There shall be written documentation of less restrictive measures used in the resident's or child of a resident’s record;

c. emergency use of time-out for residents shall be approved by the service plan manager or program director for a period not to exceed one hour for residents age 6 and above;

d. time-out used in an individual behavior support plan for residents shall be part of the overall service plan;

e. the plan shall state the reasons for using time-out and the terms and conditions under which time-out will be terminated or extended, specifying a maximum duration of the use of the procedure that shall under no circumstances exceed two hours for residents;

f. staff shall make periodic checks but at least every 15 minutes while the resident is in time-out;

g. the resident shall be allowed to return to the daily activities at any time he/she has regained control of his/her behavior and is ready to participate in the group activities;

h. a resident or child of a resident in time-out shall not be denied access to bathroom facilities, water, or meals;

i. after each use of time out, the staff shall document the incident and place in the resident's record;

j. an administrative review of the incident by the program director or other facility management staff shall be conducted within three calendar days to include an analysis of specific precipitating factors and strategies to prevent future occurrences;

k. time-out shall not be used for children of residents or residents under two years of age;

l. the length of time out for children 2 years-5 years of age shall be based on the age of the child and shall not exceed a maximum of one minute per year of age. Provider shall take into account the child’s developmental stage, tolerances, and ability to learn from time-out.

E. Personal Restraints

1. The provider shall and adhere to have a written policy and procedure that governs the use of personal restraints.

2. Use of personal restraints shall never be used as a form of punishment, a form of discipline, in lieu of adequate staffing, as a replacement of active treatment, or for staff convenience.

3. Written documentation of any less restrictive measures attempted shall be documented in the resident's record.

4. A personal restraint shall be used only in an emergency when a resident's behavior escalates to a level where there is imminent risk of harm to the resident or others and other de-escalation techniques have been attempted without effect. The emergency use of personal restraints shall not exceed the following:

a. 30 minutes for a resident under nine years old; or

b. one hour for a resident nine years old or older.

5. The specific maximum duration of the use of personal restraints as noted in Paragraph E.4 of this Section may be exceeded only if prior to the end of the time period, a written continuation order noting clinical justification is obtained from a licensed psychiatrist, psychologist, or physician. The maximum time for use of personal restraints shall be 12 hours.

6. During any personal restraint, staff qualified in emergency behavior intervention must monitor the resident's breathing and other signs of physical distress and take appropriate action to ensure adequate respiration, circulation, and overall well-being. If available, staff that is not restraining the resident should monitor the resident. The resident must be released immediately when an emergency health situation occurs during the restraint. Staff must obtain treatment immediately.

7. The resident must be released as soon as the resident's behavior is no longer a danger to himself or others.

8. Restraints are only to be used by employees trained by a certified trainer under a program that aligns with the nationally accredited standards. A single person restraint can only be initiated in a life-threatening crisis. Restraint by a peer is prohibited. Staff performing a personal restraint on a resident with specific medical conditions must be trained on risks posed by such conditions.

9. As soon as possible after the use of a personal restraint, the provider shall provide and document debriefing. Separate debriefing meetings must be held with senior staff and the staff members(s) involved, the resident involved, witnesses to the event, and family members, if indicated.

10. After use of a personal restraint, the staff shall document the incident and place in the resident's record.

11. An administrative review of the incident by the program director or other facility management staff shall be conducted within three calendar days to include an analysis

of specific precipitating factors and strategies to prevent future occurrences.

12. All incidents of personal restraint use shall be trended in the quality improvement program. A summary report on the use of personal restraints will be prepared and submitted to the Licensing Section on a quarterly basis.

13. In the event a death occurs during the use of a personal restraint, the facility shall conduct a review of its personal restraint policies and practices and retrain all staff in the proper techniques and in methods of de-escalation and avoidance of personal restraint use within five calendar days. Documentation to include staff signatures and date of training shall be submitted to the Licensing Section upon completion of training.

F. Seclusion

1. The provider shall have and adhere to a written policy and procedure that governs the use of seclusion, if such a room exists in the facility. Seclusion may only be used in accordance with this Subsection.

2. Use of seclusion shall never be used as a form of punishment, a form of discipline, in lieu of adequate staffing, as a replacement of active treatment or for staff convenience.

3. A resident will be placed in a seclusion room only in an emergency, when there is imminent risk of harm to the resident or others and when less restrictive measures have been used without effect. Written documentation of the less restrictive measures attempted shall be documented in the resident’s record. The emergency use of seclusion shall not exceed the following:

a. one hour for a resident under nine years old; or

b. two hours for a resident nine years old or older.

4. The specific maximum duration of the use of seclusion as noted in Paragraph F.3 of this Section may be exceeded only if prior to the end of the time period, a written continuation order noting clinical justification is obtained from a licensed psychiatrist, psychologist, or physician. The maximum time for use of seclusion shall be 12 hours.

5. A staff member shall exercise direct physical observation of the resident at all times while in seclusion. During the seclusion, the staff must monitor the resident's physical well-being for physical distress and take appropriate action, when indicated. The resident must be released immediately when an emergency health situation occurs during the seclusion and staff must obtain treatment immediately. The staff member must assess the resident's psychological well-being to ensure that the intervention is being completed in a safe and appropriate manner and that the facility's policies and procedures are being upheld.

6. Seclusion used as part of an individual behavior support plan shall state the reasons for using seclusion and the terms and conditions under which seclusion shall be terminated or extended.

7. A resident in seclusion shall not be denied access to bathroom facilities, water or meals.

8. As soon as possible, but no later than 72 hours after the use of seclusion, the provider shall provide and document debriefing. Separate debriefing meetings must be held with senior staff and the staff member(s) involved, the resident involved, witnesses to the event, and family members, if indicated.

9. After use of seclusion, the staff shall document the incident and place in the resident's record.

10. An administrative review of the incident by the program director or other facility management staff shall be conducted within three calendar days to include an analysis of specific precipitating factors and strategies to prevent future occurrences.

11. All incidents of seclusion shall be trended in the quality improvement program. A summary report on the use of seclusion will be prepared and submitted to the Licensing Section on a quarterly basis.

12. The resident's legal guardian, the Louisiana child protection statewide hotline 1-855-4LA-KIDS (1-855-452-5437), and the Licensing Section shall be notified if injury or death occurs while the resident is in seclusion.

13. In the event a death occurs during the use of seclusion, the facility shall conduct a review of its seclusion policies and practices and retrain all staff in the proper use of seclusion and in methods of de-escalation and avoidance of seclusion within five calendar days. Documentation to include staff signatures and date of training shall be submitted to the Licensing Section upon completion of training.

14. Seclusion Room

a. The resident shall be unable to voluntarily leave the room.

b. The room shall be large enough to allow easy access for staff to enter and exit and deep enough to ensure that the person being secluded cannot keep the door from closing by blocking it with the body or an object.

c. The ceiling of the seclusion room shall be unreachable and of solid construction.

d. If there are windows in the seclusion room, they should be locked with security locks and not allowed to open to the outside. Safety glass or plastic that cannot be broken shall be used for the panes. The view from the door observation window must not be obstructed.

e. The inside walls of the seclusion room shall be constructed of safe material with give that can be easily cleaned. Nothing shall protrude or extend from the wall.

f. The door of the room shall swing outward to prevent a person from blocking the door from opening and thus barricading himself in the room.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:477 and R.S. 46:1401 et seq.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Community Service, LR 36:819 (April 2010), amended by the Department of Children and Family

Services, Division of Programs, Licensing Section, LR 38:985 (April 2012), amended by the Department of Children and Family Services, Licensing Section, LR 43:274 (February 2017).

§7117. Provider Services

A. Education

1. The provider shall have and adhere to written policies and procedures to ensure that each resident and child of a resident has access to the most appropriate educational services consistent with the resident's and child of a resident's abilities and needs, taking into account his/her age and level of functioning.

2. The provider shall ensure that educational records from the resident's or child of a resident's previous school are transferred to the new educational placement timely.

3. A resident's service plan shall identify if the resident has any disabilities. Residents and children of residents with disabilities shall be identified to the local education agency. If the resident or child of a resident is eligible for Individual with Disabilities Education Act (IDEA) services, the provider shall work with the legal guardian to ensure that he or she has a current educational evaluation, an appropriate Individualized Educational Plan (IEP), and surrogate parent to assist him or her in enforcing rights under the IDEA. If the resident or child of a resident is eligible for section 504 accommodations in the Rehabilitation Act of 1973, as amended, the provider shall work with the legal guardian.

4. If a resident or child of a resident is suspected of having a disability that would qualify him or her for special education services, the provider shall work with the legal guardian to ensure that a request for a special education evaluation is made and that the local education agency responds appropriately.

5. The provider shall work with the legal guardian and, where applicable, surrogate parent, to identify any deficiencies or problems with a resident's or child of a resident's IEP or individualized accommodations plan (IAP), and to ensure that the resident's or child of a resident's IEP or IAP is being implemented by the local education agency.

6. Whether educational services are provided on or off-site, all residents and children of residents of school age shall be enrolled in and attending the least restrictive available option of either a school program approved by the Department of Education or an alternative educational program approved by the local school board within three school days of admission to the facility. Children of residents residing in the facility shall attend school off site.

7. The provider shall ensure residents have access to vocational training, GED programs, and other alternative educational programming, if appropriate.

8. Whether educational services are provided on or off-site, the provider shall coordinate residents' participation in school-related extracurricular activities, including any related fees or costs for necessary equipment.

9. The provider shall coordinate children of residents' participation in school-related extracurricular activities, including any related fees or costs for necessary equipment.

10. Whether educational services are provided on or off-site, the provider shall notify the resident's legal guardian(s) and, where applicable, the resident's surrogate parent, verbally and in writing within 24 hours of any truancy, expulsion, suspension, or informal removal from school. Notification shall be documented in the resident's or child of a resident's record.

11. The provider shall notify the resident or child of a resident's legal guardian(s) verbally and in writing within 24 hours of any truancy, expulsion, suspension, or informal removal of their child from school. Notification shall be documented in the child of the resident's record.

12. All residents and children of residents shall receive a free and appropriate education. If transportation is not provided by the local educational authority, the provider shall transport the resident or child of a resident to school or other educational program in order for the resident to fulfill the requirements of their educational program.

13. When children of residents are picked up or dropped off at the facility by a public or private school bus or transportation service, staff shall be present to safely escort children of residents to and from the bus.

14. If educational services are provided on-site, the following also apply.

a. The provider shall provide accommodations for educational services to be provided by the local school district in accordance with local school board calendar. The school classes shall be held in classrooms/multi-purpose rooms. The provider shall ensure that the educational space is adequate to meet the instructional requirements of each resident.

b. Prior to the end of the first official school day following admission, the resident shall receive a brief educational history screening with respect to their school status, special education status, grade level, grades, and history of suspensions or expulsions. Staff shall use this information to determine initial placement in the facility's educational program.

c. Within 3 school days of the resident's arrival at the facility, the provider shall request educational records from the resident's previous school. If records are not received within 10 school days of the request, the program director shall report in writing on the eleventh day to the local school district from which records were requested that the information has been requested and not received. If the records are not received within the following 7 school days of notifying the local school district, the program director shall file a written complaint with the Board of Elementary and Secondary Education (BESE) on the eighth day.

d. Residents in restricted, disciplinary, or high security units shall receive an education program

comparable to residents in other units in the facility consistent with safety needs.

e. When residents are suspended from the facility school, the suspension shall comply with local jurisdiction due process requirements.

f. Behavior intervention plans shall be developed for a resident whose behavior or emotional stability interferes with their school attendance and progress.

g. The provider shall have available reading materials geared to the reading levels, interests, and primary languages of residents.

h. The provider shall ensure that residents are engaged in instruction for the minimum minutes in a school day required by law.

i. The program director shall immediately report in writing to the local school district if the facility school is not being staffed adequately to meet state student to teacher ratios for education, including but not limited to, special education staff and substitute teaching staff. If the issue is not resolved within five school days by the local school district, then the program director shall file a written complaint on the sixth day with BESE and cooperate with any subsequent directives received from BESE.

j. The provider shall have documentation of a satisfactory fingerprint-based criminal record check through the FBI as required in §7124.G.

k. The provider shall have documentation of State Central Registry (SCR) clearances as required in §7112.C.

B. Daily Living Responsibilities

1. Routines

a. The provider shall have and adhere to a written schedule of daily routines for residents designed to provide for reasonable consistency and timeliness in daily activities, in the delivery of essential services to residents, and in the provision of adequate periods of recreation, privacy, rest, and sleep.

b. Written schedules of daily routines shall be posted and available to the residents.

c. Daily routines shall be determined in relation to the needs and convenience of the residents who live together.

d. Whenever appropriate, the residents shall participate in making decisions about schedules and routines.

e. The program for daily routines shall be reviewed periodically and revised as the needs of the residents or living group change.

f. The provider shall develop and adhere to written policies regarding a daily schedule for children of residents that includes planned/unplanned activities, allowing for flexibility and change. Activities shall accommodate and have due regard for individual needs and differences among children. Children of residents' routines shall include time daily for indoor and outdoor play (weather permitting) that incorporate free play, gross/fine motor activities and vigorous and quiet activities. Time should also be designated for activities that support children's development of social, emotional, physical, language/literacy, cognitive/intellectual and cultural skills, as well as for routine occurrences such as meals/snacks, rest time, etc.

2. Personal Possessions

a. The provider shall allow residents and children of residents to bring their personal possessions and display them, when appropriate.

b. Residents and children of residents shall be allowed to acquire possessions of their own. The provider may, as necessary, limit or supervise the use of these items. Where restrictions are imposed, the resident or child of a resident shall be informed by staff of the reason of the restriction. The decision and reason shall be recorded in the individual's record.

c. Each resident and child of a resident shall have a secure place to store his/her personal property.

d. Possessions confiscated by staff will be documented to include:

i. signature of the staff and resident or child of a resident;

ii. date and time of confiscation; and

iii. date and time when returned to resident or child of a resident and signature of resident or child of resident;

iv. description of items confiscated and reason confiscated.

e. The provider shall be responsible for all confiscated items, including replacement if the item is damaged, lost, or stolen while in the provider's possession.

f. A log of any valuable personal possessions to include any assistive devices, i.e., hearing aide, glasses, etc., shall be maintained by the provider.

3. Clothing and Personal Appearance

a. The provider shall ensure that residents and children of residents are provided with clean, well-fitting clothing appropriate to the season and to the individual's age, sex, and individual needs. Whenever possible, the resident or child of a resident should be involved in selecting their clothing.

b. The provider shall have and adhere to a written policy concerning any limitations regarding personal appearance. Any limitations should be related to maintaining the safety and well-being of the residents or children of residents receiving services.

c. Clothing and shoes shall be of proper size and adequate in amount to permit laundering, cleaning, and repair.

d. Clothing shall be maintained in good repair.

e. Clothing shall belong to the individual resident or child of a resident and not be required to be shared.

f. All clothing provided to a resident or child of a resident shall remain with the resident or child of a resident upon discharge.

g. The provider shall ensure residents and children of residents have access to adequate grooming services, including haircuts.

4. Independent Life Training

a. The provider shall have a program to ensure that residents receive training in independent living skills appropriate to their age and functioning level. Individualized independent life training goals shall be included in each resident's service plan.

b. This program shall include but not be limited to instruction in:

i. health and dental care, hygiene and grooming;

ii. family life;

iii. sex education including family planning and venereal disease counseling;

iv. laundry and maintenance of clothing;

v. appropriate social skills;

vi. housekeeping;

vii. use of transportation;

viii. budgeting and shopping;

ix. money management;

x. cooking and proper nutrition;

xi. employment issues, including punctuality and attendance;

xii. use of recreation and leisure time;

xiii. education, college, trade, and/or long-term planning/life goals;

xiv. accessing community services; and

xv. parenting skills.

c. In addition, residents with children shall also receive training in the following topics:

i. parenting preparation classes;

ii. stages of growth in infants, children and adolescents (as applicable);

iii. day-to-day care of infants, children and adolescents (as applicable);

iv. disciplinary techniques for infants, children, and adolescents (as applicable);

v. child-care resources;

vi. stress management;

vii. life skills; and

viii. decision making.

5. Money:

a. the provider shall permit and encourage a resident or child of a resident, as age appropriate, to possess his/her own money. The provider can give the resident or child of a resident an allowance. Residents and children of residents should be given the opportunity to earn additional money by providing opportunities for paid work, unless otherwise indicated by the resident's service plan, and reviewed every 30 days by the service plan manager;

b. money earned or received either as a gift or an allowance by a resident or child of a resident, shall be deemed to be that individual’s personal property;

c. limitations may be placed on the amount of money a resident or child of a resident may possess or have unencumbered access to when such limitations are considered to be in the individual’s best interests and are duly recorded in the resident's service plan or child of a resident’s record. The reasons for any limitations should be fully explained to the resident, child of the resident, and their families;

d. resident's monetary restitution for damages shall only occur when there is clear evidence of individual responsibility for the damages and the program director approves the restitution. The resident and his/her legal guardian(s) shall be notified in writing within 24 hours of any claim for restitution and shall be provided with specific details of the damages, how, when and where the damages occurred, and the amount of damages claimed. If the amount is unknown, an estimate of the damages shall be provided and an exact figure provided within 30 days. The resident and his/her legal guardian(s) shall be given a reasonable opportunity to respond to any claim for damages. If the provider receives reimbursement for damages either through insurance or other sources, the resident shall not be responsible for restitution;

e. the provider shall maintain a separate accounting of each resident’s or child of a resident’s money; and

f. upon discharge, the provider shall provide the resident, child of a resident, or legal guardian(s) any outstanding balance.

6. Work

a. The provider shall have and adhere to a written policy regarding the involvement of residents in work including:

i. description of any unpaid tasks required of residents;

ii. description of any paid work assignments including the pay for such assignments that are at least minimum wage;

iii. description of the provider's approach to supervising work assignments; and

iv. assurance that the conditions and compensation of such work are in compliance with applicable state and federal laws.

b. The provider shall demonstrate that any resident's work assignments are designed to provide a constructive experience and are not used as a means of performing vital provider functions at low cost. All work assignments shall be in accordance with the resident's service plan.

c. The provider shall assign, as unpaid work, age appropriate housekeeping tasks similar to those performed in a normal family home. Any other work assigned shall be compensated. The provider shall ensure that all such employment practices comply fully with state and federal laws and standards. No resident shall be employed in any industrial or hazardous occupation, or under any hazardous conditions.

d. When a resident engages in off-grounds work, the provider shall be responsible for ensuring the resident has access to transportation and other supports needed to perform the work successfully. The provider shall document that:

i. such work is voluntary and in accordance with the resident's service plan;

ii. the service plan manager approves such work;

iii. the conditions and compensation of such work are in compliance with the Fair Labor Standards Act and other applicable state and federal laws; and

iv. such work does not conflict with the resident's program.

C. Food Service

1. The provider shall ensure that a staff person has oversight of the total food service of the facility. This person shall be familiar with nutrition and food service management and shall be responsible for implementation and/or delegation of:

a. purchasing food according to the approved dietary menu;

b. oversight of storing and handling of food;

c. oversight of food preparation;

d. oversight of food serving;

e. maintaining sanitary standards in compliance with state and local regulations;

f. orientation, training, and supervision of food service personnel to include proper feeding techniques as age appropriate;

g. maintaining a current list of residents and children of residents with special nutritional needs;

h. having an effective method of recording and transmitting diet orders and changes;

i. recording information in the resident's or child of a resident’s record relating to special nutritional needs; and

j. providing information on residents' and children of residents’ diets to staff.

2. The provider shall have and adhere to written policies and procedures that ensure that residents and children of residents are , on a daily basis, provided with food of such quality and in such quantity as to meet the recommended daily dietary allowances adjusted for age, gender, and activity of the United States Department of Agriculture and doesn’t deny any rights of the resident or child of a resident. Two of the three meals (breakfast, lunch, supper) served shall be hot meals. Residents and children of residents shall also be provided with a snack between meals and prior to bedtime. Breakfast shall be served within at least one hour from when residents awake.

3. The provider shall maintain a master menu, including appropriate substitutions, which is written and approved annually, by a registered dietician.

a. The provider shall post the written menu at least one week in advance in an area regularly used by residents.

b. Menus shall provide for a sufficient variety of foods, vary from week to week and reflect all substitutions. Any substitution shall be of equal nutritional value. Residents shall be allowed to provide input into these menus.

c. Written menus and records of foods purchased shall be maintained on record for one year.

4. The provider shall ensure that any modified diet for a resident or child of a resident shall be:

a. prescribed by the individual’s physician, approved by the registered dietician, and identified in the resident’s service plan or child of a resident’s record; and

b. planned, prepared, and served by persons who have received instruction on the modified diet.

5. Condiments appropriate for the ordered diet will be available.

6. When meals are provided to staff, the provider shall ensure that staff members eat the same food served to residents or children of residents, unless special dietary requirements dictate differences in diet.

7. Food provided to a resident or child of a resident shall be in accordance with his/her religious beliefs.

8. No resident or child of a resident shall be denied food or force-fed for any reason except as medically required pursuant to a physician's written order. A copy of the order shall be maintained in the individual’s record.

9. The provider shall have and adhere to written policies and procedures to ensure that all food shall be stored, prepared, and served under sanitary conditions. The provider shall ensure that:

a. food served to the resident or child of a resident is in a form consistent with the developmental level of the individual and with appropriate utensils;

b. food served to a resident or child of a resident not consumed is discarded;

c. food and drink purchased shall be of safe quality. Milk and milk products shall be grade A and pasteurized.

10. Hand washing facilities, including hot and cold water, soap, and paper towels, shall be provided adjacent to food service work areas.

11. Food shall be stored separate from cleaning supplies and equipment.

12. Food storage areas are free of rodents, roaches, and/or other pests and the provider shall take precautions to ensure such pests do not contaminate food.

13. Persons responsible for food preparation shall not prepare food if they have symptoms of acute illness or an open wound.

14. Information regarding food allergies/special diets shall be posted in the food prep area with special care so that the individual names are not in public view.

15. Children under four years of age shall not have foods that are implicated in choking incidents. Examples of these foods include but are not limited to the following: whole hot dogs, hot dogs sliced in rounds, raw carrot rounds, whole grapes, hard candy, nuts, seeds, raw peas, hard pretzels, chips, peanuts, popcorn, marshmallows, spoonfuls of peanut butter, and chunks of meat larger than what can be swallowed whole.

16. Formula for an infant prepared by or in a residential home shall be prepared in accordance with the instructions of the formula or by the techniques recommended by the physician which shall be on file at the facility.

17. Formula for an infant shall be labeled with the child's name and date of preparation.

18. Formula for an infant shall be refrigerated immediately after preparation and shall not be used more than 24 hours after preparation. The timeframe for use after preparation may be longer than 24 hours if directed by written order of a physician or as documented in the instructions of the formula. The timeframe shall not be extended beyond the physician's written recommendation or the instructions of the formula.

19. Formula shall not be heated in a microwave oven.

20. Water shall be given to infants only with written instructions from child’s physician.

21. A child’s bottle shall not be propped at any time.

22. Infants shall be held while being bottle-fed to provide a nurturing, safe feeding experience.

D. Health-Related Services

1. Health Care

a. The provider shall have and adhere to written policies and procedures for providing preventive, routine, and emergency medical and dental care for residents and children of residents and shall show evidence of access to the resources. They shall include, but are not limited to, the following:

i. ongoing appraisal of the general health of each resident and child of a resident;

ii. provision of health education, as appropriate;

iii. provision for maintaining current immunizations;

iv. approaches that ensure that any medical service administered will be explained to the resident or child of a resident in language suitable to his/her age and understanding;

v. an ongoing relationship with a licensed physician, dentist, and pharmacist to advise the provider concerning medical and dental care;

vi. availability of a physician on a 24-hour, seven days a week basis;

vii. reporting of communicable diseases and infections in accordance with law;

viii. procedures for ensuring residents and children of residents know how and to whom to voice complaints about any health issues or concerns.

2. Medical Care

a. The provider shall arrange a medical examination by a physician for the resident or child of a resident within a week of admission unless the resident or child of a resident has received such an examination within 30 days before admission and the results of this examination are available to the provider. If the resident or child of a resident is being transferred from another residential home and has had a physical examination within the last 12 months, a copy of this examination may be obtained to meet the requirement of the admission physical. The physical examination shall include:

i. an examination of the resident or child of a resident for any physical injury, physical disability, and disease;

ii. vision, hearing, and speech screening; and

iii. a current assessment of the resident's or child of resident’s general health.

b. The provider shall arrange an annual physical examination of all residents and children of residents.

c. Whenever indicated, the resident or child of a resident shall be referred to an appropriate medical specialist for either further assessment or service, including gynecological services for female residents or children of residents. The provider shall schedule such specialist care within 30 days of the initial exam. If the specialist’s service

needed is a result of a medical emergency, such care shall be obtained immediately.

d. The provider shall ensure that a resident or child of a resident receives timely, competent medical care when he/she is ill or injured. The provider shall notify the legal guardian, verbally and/or in writing, within 24 hours of a resident's or child of a resident's illness or injury that requires service from a physician or hospital. The notification shall include the nature of the injury or illness and any service required.

e. Records of all medical examinations, services, and copies of all notices to legal guardian(s) shall be kept in the resident's or child of a resident's record.

3. Dental Care

a. The provider shall have and adhere to written policies and procedures for providing comprehensive dental services to include:

i. provision for dental service;

ii. provision for emergency service on a 24-hour, seven days a week basis by a licensed dentist;

iii. a recall system specified by the dentist, but at least annually;

iv. dental cleanings annually; and

v. training and prompting for residents and children of residents to brush their teeth at least twice per day.

b. The provider shall arrange a dental exam for each resident and child of a resident within 90 days of admission unless the resident or child has received such an examination within six months prior to admission and a copy of the examination is obtained by the provider. Children of residents shall begin receiving annual examinations at the eruption of their first tooth and no later than 12 months of age.

c. Records of all dental examinations, follow-ups and service shall be documented in the record.

d. The provider shall notify the legal guardian(s), verbally and/or in writing, immediately when a resident or child of a resident requires or receives dental services of an emergency nature. The notification shall include the nature of the dental condition and any service required. Notification shall be documented in the record.

4. Immunizations

a. The provider shall have and adhere to written policies and procedures regarding immunizations to ensure that:

i. within 30 days of admission, the provider shall obtain documentation of a resident's or child of a resident's immunization history, ensuring that the resident and child of a resident have received and will receive all appropriate immunizations and booster shots that are required by the Office of Public Health;

ii. the provider shall maintain a complete record of all immunizations received in the resident's or child of a resident's record.

5. Medications

a. The provider shall have and adhere to written policies and procedures that govern the safe administration and handling of all medication, to include the following:

i. a system for documentation and review of medication errors;

ii. self-administration of both prescription and nonprescription medications;

iii. handling medication taken by residents and children of residents on pass; and

iv. a plan of action for residents and children of residents who require emergency medication (e.g., Epipen, Benadryl).

b. The provider shall have a system in place to ensure that there is a sufficient supply of prescribed medication available for each resident and child of a resident at all times.

c. The provider shall ensure that medications are either self-administered or administered by persons with appropriate credentials, training, and expertise.

i. Effective August 1, 2016, providers licensed to care for children of residents or licensed to care for residents under five years of age shall have staff trained in medication administration. Trained staff shall be scheduled for each shift when residents under five years of age or children of residents under five years of age are present on the premises. Training shall be obtained every two years from an approved child care health consultant. By virtue of his/her current license, a licensed practical nurse (LPN) or registered nurse (RN) shall be considered to have medication administration training.

d. There shall be written documentation requirements for the administration of all prescription and non-prescription medication, whether administered by staff, supervised by staff or self-administered. This documentation shall include:

i. resident's or child of resident's name, date, medication name, dosage, and time administered;

ii. signature of person administering medication; and

iii. signature of person witnessing resident or child of resident self-administer medication (if applicable).

e. When residents administer medication to their own children, the medication administration record shall be documented by either the resident or by facility staff as indicated in Subparagraph D.5.d of this Section.

f. If prescription medication is not administered as prescribed or resident or child of resident refuses to take

medication, the physician ordering the medication shall be immediately notified and documentation noted to include:

i. resident's or child of resident's name, date, and time;

ii. medication name and dosage;

iii. person attempting to administer medication, if other than resident or child of resident;

iv. reason for refusal or medication not being given as prescribed;

v. name of staff notifying physician's office;

vi. date and time of notification to physician's office; and

vii. name of person notified and next steps (if applicable).

g. The provider shall ensure that any medication given to a resident or child of resident for therapeutic and/or medical purposes is in accordance with the written order of a physician.

h. There shall be no standing orders for prescription medications.

i. There shall be standing orders, signed by the physician, for nonprescription medications with directions from the physician indicating when he/she is to be contacted. The physician shall update standing orders annually.

j. Copies of all written orders shall be maintained in the resident's or child of a resident's record.

k. Medication shall not be used as a disciplinary measure, a convenience for staff, or as a substitute for adequate, appropriate programming.

l. Prescription medications shall be reviewed and renewed on at least an annual basis by a licensed physician; however psychotropic medications shall be reviewed and renewed at least every 90 days by a licensed physician.

m. Residents and children of residents shall be informed of any changes to their medications, prior to administration of any new or altered medications.

n. Residents, staff, and, where appropriate, residents' legal guardian(s) are educated on the potential benefits and negative side effects of the medication and are involved in decisions concerning the use of the medication.

o. The provider shall ensure that the prescribing physician is immediately informed of any side effects observed by staff, or any medication errors. Any such side effects or errors shall be promptly recorded in the resident's or child of a resident's record and the legal guardian(s) shall be notified verbally or in writing within 24 hours.

p. Discontinued and outdated medications and containers with worn, illegible, or missing labels shall be properly disposed of according to state law.

q. Medications shall be stored under proper conditions of sanitation, temperature, light, moisture, ventilation, segregation, and security.

i. External medications and internal medications shall be stored on separate shelves or in separate cabinets.

ii. All medication shall be kept under lock and key. Refrigerated medication shall be stored in a secure container with a lid to prevent access by children and avoid contamination of food.

r. All medications shall be maintained in the original container/packaging or as dispensed by the pharmacist.

s. A plan of care shall be developed for each resident or child of a resident who requires emergency medication (e.g., Epipen, Benadryl). The plan of care shall include:

i. method of administration;

ii. symptoms that would indicate the need for the medication;

iii. actions to take once symptoms occur;

iv. description of how to use the medication; and

v. signature and date of program director or medical personnel.

t. Medication administration records for emergency medication shall be maintained in accordance with Subparagraph D.5.d of this Section and shall also include the following:

i. symptoms noted that indicated the need for the medication;

ii. actions taken once symptoms occurred;

iii. description of how medication was administered;

iv. signature (not initials) of the staff member who administered the medication; and

v. notification to legal guardian (date, time, and signature of person who contacted the legal guardian) following the administration of the emergency medication.

u. If the non-prescription medication label reads "to consult physician", a written authorization from a Louisiana, or adjacent state, licensed medical physician or dentist, shall be on file in order to administer the medication, and shall include the following information:

i. child's name;

ii. date of authorization;

iii. medication name and strength; and

iv. clear directions for use, including the route (e.g., oral, topical), dosage, and frequency, time, or schedule of medication.

6. Professional and Specialized Services

a. The provider shall monitor that residents and children of residents receive specialized services to meet their needs; these services shall include but are not limited to:

i. physical/occupational therapy;

ii. speech pathology and audiology;

iii. psychological and psychiatric services;

iv. social work services;

v. individual, group and family counseling; and

vi. substance abuse counseling/drug or alcohol addiction treatment.

b. The provider shall monitor that all providers of professional and special services:

i. record all significant contacts with the resident or child of a resident;

ii. provide quarterly written summaries of the resident's or child of a resident's response to the service, the resident's or child of a resident's current status relative to the service, and the resident's or child of a resident's progress;

iii. participate, as appropriate, in the development, implementation, and review of resident's service plans and aftercare plans and participates in the interdisciplinary team responsible for developing such plans;

iv. provide services appropriately integrated into the overall program and provide training to direct service staff as needed to implement service plans;

v. provide resident assessments/evaluations as needed for service plan development and revision.

c. The provider shall monitor that any provider of professional or special services (internal or external to the facility) meets the criteria noted below:

i. have adequately qualified and, where appropriate, currently licensed or certified staff according to state or federal law;

ii. have adequate space, facilities, and privacy;

iii. have appropriate equipment, supplies, and resources.

d. The providers shall ensure that residents and children of residents are evaluated for specialized services in a timely manner when a need is identified.

E. Recreation

1. The provider shall have and adhere to a written policy and procedure for a recreation program that offers indoor and outdoor activities in which participation can be encouraged and motivated on the basis of individual interests and needs of the residents and children of residents and the composition of the living group.

2. The provider shall provide recreational services based on the individual needs, interests, and functioning levels of the residents and children of residents served. In planning recreational programs and activities, staff should assess the ages, interests, abilities and developmental and other needs of the residents and children of residents served to determine the range of activities that are safe and appropriate. Residents and children of residents shall be allowed time to be alone and to engage in solitary activities that they enjoy. There should be opportunities for group activities to develop spontaneously, such as group singing, dancing, storytelling, listening to music, games, etc. Recreational activities should be planned throughout the week.

3. Recreational objectives shall be included in each resident's service plan. Residents should be involved in planning and selecting activities as part of their individual service plan.

4. The provider shall provide adequate recreation and yard spaces to meet the needs and abilities of residents and children of residents regardless of their disabilities. Recreation equipment and supplies shall be of sufficient quantity and variety to carry out the stated objectives of the provider's recreation plan. Recreational equipment should be selected in accordance with the number of residents and children of residents, their ages and needs, and should allow for imaginative play, creativity, and development of leisure skills and physical fitness.

5. The provider shall utilize the recreational resources of the community whenever appropriate. The provider shall arrange the transportation and supervision required for maximum usage of community resources. Unless the restriction is part of the facility's master behavior program plan, access to such community resources shall not be denied or infringed except as may be required as part of the resident's service plan. Any such restrictions shall be specifically described in the service plan, together with the reasons such restrictions are necessary and the extent and duration of such restrictions.

F. Transportation

1. The provider shall have and adhere to written policies and procedures to ensure that each resident is provided with transportation necessary to meet his/her needs as identified in the individualized service plan.

2. The provider shall have means of transporting residents and children of residents in cases of emergency.

3. The provider shall ensure and document that any vehicle used in transporting residents or children of residents, whether such vehicle is operated by a staff member or any other person acting on behalf of the provider, is licensed in accordance with state law and carries current liability insurance.

4. All vehicles used for the transportation of residents or children of residents shall be maintained in a safe condition and in conformity with all applicable motor vehicle laws.

5. Preventative maintenance shall be performed on a monthly basis to ensure the vehicles are maintained in working order. The provider shall maintain documentation supporting adherence to vehicle maintenance schedules and other services as indicated.

6. Any staff member of the provider or other person acting on behalf of the provider, operating a vehicle for the purpose of transporting residents or children of residents shall maintain a current driver's license. The staff member operating the vehicle shall have the applicable type of driver's license to comply with the current motor vehicle laws.

7. The provider shall not transport residents nor children of residents in the back or the bed of a truck.

8. The provider shall conform to all applicable state motor vehicle laws regarding the transport of residents and children of residents.

9. The provider shall ensure that residents and children of residents being transported in the vehicle are properly supervised while in the vehicle and during the trip. Residents nor children of residents are to be unattended in the vehicle.

10. Vehicles used to transport residents and children of residents shall not be identified in a manner that may embarrass or in any way produce notoriety for residents or children of residents.

11. The provider shall ascertain the nature of any need or problem of a resident or child of a resident that might cause difficulties during transportation, such as seizures, a tendency toward motion sickness, or a disability. The provider shall communicate such information to the individual of any vehicle transporting residents or children of residents.

12. The following additional arrangements are required for a provider serving residents or children of residents with physical limitations:

a. a ramp device to permit entry and exit of a resident or child of a resident from the vehicle shall be provided for all vehicles except automobiles normally used to transport physically handicapped residents or children of residents. A mechanical lift may be utilized if a ramp is also available in case of emergency;

b. in all vehicles except automobiles, wheelchairs used in transit shall be securely fastened to the vehicle;

c. in all vehicles except automobiles, the arrangement of the wheelchairs shall provide an adequate aisle space and shall not impede access to the exit door of the vehicle.

13. No resident or child of a resident shall be transported in any vehicle unless age appropriate child restraints are utilized. In addition, transportation arrangements shall conform to state laws, including but not limited to those requiring the use of seat belts and child restraints.

14. Only one resident or child of a resident shall be restrained in a single safety belt.

15. All aspects of the vehicle shall be maintained in good repair including, but not limited to proper working order of doors, lights, tires, etc.

a. ventilation and heating systems shall be operational and used to maintain a comfortable temperature during transport;

b. the vehicle's engine shall be maintained in working mechanical order;

c. the vehicle's interior shall be clean and free of trash and debris;

d. the vehicle's seat coverings shall be in good repair;

16. The use or possession of alcohol, tobacco in any form, illegal substances or unauthorized potentially toxic substances, firearms (loaded or unloaded), or pellet or BB guns (loaded or unloaded) in any vehicle used to transport residents or children of residents is prohibited.

17. The number of persons in a vehicle used to transport residents or children of residents shall not exceed the manufacturer's recommended capacity.

18. The vehicle shall have evidence of a current safety inspection.

19. A visual inspection of the vehicle is required to ensure that no child of a resident or resident under 10 years of age is left in the vehicle. A staff person shall physically walk through the vehicle and inspect all seat surfaces, under all seats, and in all enclosed spaces and recesses in the vehicle's interior. For field trips, staff shall inspect the vehicle and conduct a face-to-name count prior to leaving the facility for the destination, when destination is reached, before departing destination for return to facility, and upon return to facility. For all other transportation, the staff shall inspect the vehicle at the completion of each trip prior to the staff person exiting the vehicle. The staff conducting the visual inspection when a child of a resident or resident under 10 years of age is transported shall document the time of the visual inspection and sign his or her full name, indicating that no child of a resident or resident under 10 years of age was left in the vehicle.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:477 and R.S. 46:1401 et seq.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Community Service, LR 36:823 (April 2010), amended by the Department of Children and Family Services, Division of Programs, Licensing Section, LR 38:985 (April 2012), amended by the Department of Children and Family Services, Licensing Section, LR 43:278 (February 2017), LR 43:1725 (September 2017), LR 46:675 (May 2020), effective June 1, 2020.

§7119. Physical Environment

A. Physical Appearance and Conditions

1. The provider shall maintain all areas of the facility accessible to residents and children of residents in good repair and free from any reasonably foreseeable hazard to health or safety. All structures on the grounds of the facility shall be maintained in good repair.

2. The provider shall have an effective pest control program to prevent insect and rodent infestation.

3. The provider shall maintain the grounds of the facility in good condition.

a. Garbage and rubbish stored outside shall be secured in noncombustible, covered containers and shall be removed on at least a weekly basis.

b. Trash collection receptacles shall be separate from play area.

c. Fences shall be in good repair.

d. Areas determined to be unsafe, including steep grades; cliffs, open pits, swimming pools, high voltage boosters or high-speed roads (45 mph or higher) shall be fenced or have natural barriers to protect residents and children of residents.

e. Playground equipment shall be so located, installed, and maintained as to ensure the safety of residents and children of residents.

4. Residents and children of residents shall have access to safe, suitable, outdoor recreational space and age appropriate equipment.

5. The provider shall have at least 75 square feet of accessible exterior space for each resident. The exterior space shall be adequate to accommodate one-half the licensed capacity of the facility.

6. In facilities licensed to care for residents less than 10 years of age or licensed to accept children of residents, the outdoor play space shall be enclosed with a permanent fence or other permanent barrier in such a manner as to protect the children from traffic hazards, to prevent the children from leaving the premises without proper supervision, and to prevent contact with animals or unauthorized persons.

7. In facilities licensed to care for residents less than 10 years of age or licensed to accept children of residents, all air conditioning/heating units, mechanical equipment, electrical equipment, or other hazardous equipment shall be inaccessible to children.

8. Culverts are prohibited within outdoor play spaces.

9. In facilities licensed to care for residents less than 10 years of age or licensed to accept children of residents, areas where there are open cisterns, wells, ditches, fish ponds, swimming pools, and other bodies of water shall be made inaccessible to children by fencing and locked gates.

10. All equipment used by residents and children of residents shall be maintained in a clean, safe condition and in good repair.

11. In facilities licensed to care for residents less than 10 years of age or licensed to accept children of residents, all poisons, cleaning supplies, harmful chemicals, equipment, tools, kitchen knives or potentially dangerous utensils, and any substance with a warning label stating it is harmful to or that is should be kept out of reach of children, shall be locked away from and inaccessible to children. Whether these items are in a cabinet or in an entire room, the area shall be locked.

12. The use or possession of alcohol, tobacco in any form, illegal substances, or unauthorized potentially toxic substances on the premises of the residential home is prohibited.

13. No interior door shall have a lock or fastening device that prevents free egress to the exterior of the home from the interior. No exterior door shall have a lock or fastening device that prevents free egress from the interior unless the provider has documentation of written annual approval from the Office of State Fire Marshall (OSFM).

B. Interior Space

1. The provider shall have and adhere to policies and procedures to ensure that the facility maintains a safe, clean, orderly, and homelike environment.

2. All equipment, furnishings, and interior spaces shall be clean and maintained at all times. The provider shall have a program in place to monitor regular maintenance, preventative maintenance, cleaning and repair of all equipment and furnishings that is performed on a routine basis. Written documentation of the maintenance and cleaning program activities shall be maintained by administration to include cleaning schedules and reports of repairs.

3. The facility shall have sufficient living and program space available for residents and children of residents to gather for reading, study, relaxation, structured group activities, and visitation. Space shall be available that allows for confidentiality for family visits, counseling, groups, and meetings. The living areas shall contain such items as television, stereo, age-appropriate books, magazines, and newspapers.

4. A facility shall have a minimum of 60 square feet of unencumbered floor area per resident in living and dining areas accessible to residents and excluding halls, closets, bathrooms, bedrooms, staff or staff's family quarters, laundry areas, storage areas, and office areas.

5. Each child shall be provided with an opportunity to safely and comfortably sit, crawl, toddle, walk, and play according to the child's stage of development and in a designated space apart from sleeping quarters each day in order to enhance development.

6. Computers that allow internet access by the residents or children of residents shall be equipped with monitoring or filtering software, or an analogous software protection, that limits access to inappropriate websites, e-mail, and instant messages.

7. Programs, movies, and video games shall be age appropriate.

8. A variety of books, educational materials, toys, and play materials shall be provided, organized, and displayed within resident's and children of resident's reach so that they may select and return items independently.

9. At least one corded land line capable of incoming and outgoing calls for emergency purposes shall be accessible to residents and children of residents at all times at the facility.

C. Dining Areas

1. The provider shall have dining areas that permit residents, children of residents, staff, and visitors to eat together and create a homelike environment.

2. Dining areas shall be clean, well lit, ventilated, and equipped with dining tables and appropriate seating for the dining tables.

3. Highchairs shall be used in accordance with the manufacturer's instructions including restrictions based on age and minimum/maximum weight of infants and children. Staff shall ensure that the highchair manufacturer's restraint device is used when children are sitting in the highchair. Children who are too small or too large to be restrained using the manufacturer's restraint device shall not be placed in the highchair. Provider shall take into account the child's developmental stage, tolerances, and ability to sit up safely by themselves.

D. Bedrooms

1. Each resident and child of a resident shall have his/her own designated area for rest and sleep.

2. The provider shall ensure that each single occupancy bedroom space has a floor area of at least 70 square feet of unencumbered space and that each multiple occupancy bedroom space has a floor area of at least 60 square feet of unencumbered space for each occupant.

3. The provider shall not use a room with a ceiling height of less than 7 feet 6 inches as a bedroom space. In a room with varying ceiling height, only portions of the room with a ceiling height of at least 7 feet 6 inches are allowed in determining usable space.

4. The bedroom space for residents and children of residents shall be decorated to allow for the personal tastes and expressions of the residents and children of residents.

5. Any provider that licenses beds subsequent to April 2012, shall have bedroom space that does not permit more than two residents per designated bedroom space. All others shall not exceed four residents to occupy a designated space.

6. No resident or child of a resident over the age of five years shall occupy a bedroom with a member of the opposite sex, unless that individual is the child's parent in accordance with R.S. 46:1403 or the child's sibling.

7. The provider shall ensure that the age of residents sharing bedroom space is not greater than four years in difference unless contraindicated based on family dynamics.

8. Each resident and child of a resident age 1 year and above shall have his/her own bed. The bed shall be longer than the resident or child of a resident is tall, no less than 30 inches wide, and shall have a clean, comfortable, nontoxic, fire retardant mattress.

9. The provider shall ensure that sheets, pillow, bedspread, and blankets are provided for each resident and child of a resident:

a. enuretic residents and children of residents shall have mattresses with moisture resistant covers; and

b. sheets and pillowcases shall be changed at least weekly, but shall be changed more frequently if necessary. Sheets and coverings shall be changed immediately when soiled or wet.

10. Each resident shall have a solidly constructed bed. Cots or other portable beds shall be used on an emergency basis only and shall not be in use for longer than one week.

11. All bunk beds in use in a residential home shall be equipped with safety rails on the upper tier for a child under the age of 10, or for any child whose physical, mental, or emotional condition indicates the need for such protection. A child under 6 years of age shall not sleep on the upper bunk of a bunk bed. No beds shall be bunked higher than two tiers. The provider shall ensure that- the uppermost mattress of any bunk bed shall be far enough from the ceiling to allow the occupant to sit up in bed.

12. Each resident shall have his/her own nightstand. Each resident shall have his/her own dresser or other adequate storage space for private use in the bedroom.

13. There shall be a closet for hanging clothing in proximity to the bedroom occupied by the resident and child of a resident. For beds licensed after April 2012, there shall be a closet for hanging clothing within the bedroom or immediately adjacent to the bedroom. The closet shall not be within a bathroom.

14. No resident and her child shall share a bedroom with another resident.

15. A resident shall not be allowed to sleep in the same bed with her child.

E. Bathrooms

1. The facility shall have an adequate supply of hot and cold water.

2. The facility shall have toilets and baths or showers that allow for individual privacy. For beds licensed after April 2012, the following ratio shall be met. Whenever calculations include any fraction of a fixture, the next higher whole number of fixtures shall be installed.

Lavatories	1:6 resident beds
Toilets	1:6 resident beds
Showers or tubs	1:6 resident beds

3. Bathrooms shall be so placed as to allow access without disturbing other residents or children of residents during sleeping hours.

4. Each bathroom shall be properly equipped with toilet paper, towels, and soap.

5. Tubs and showers shall have slip-proof surfaces.

6. Bathrooms shall contain mirrors secured to the walls at convenient heights and other furnishings necessary to meet the residents' and children of residents' basic hygienic needs.

7. Each resident and child of a resident shall be provided personal hygiene items such as hairbrushes, toothbrushes, razors, etc.

8. Bathrooms shall be equipped to facilitate maximum self-help by residents and children of residents. Bathrooms shall be large enough to permit staff assistance of residents and children of residents, if necessary.

9. Toilets, washbasins, and other plumbing or sanitary facilities in a facility shall be maintained in good operating condition.

F. Kitchens

1. Kitchens used for meal preparations shall be provided with the necessary equipment for the preparation, storage, serving and clean-up of all meals for all of the residents, children of residents, and staff regularly served. All equipment shall be maintained in proper working order.

2. The provider shall not use disposable dinnerware at meals except for special occasions such as picnics or barbeques or in an emergency situation unless the facility documents that such dinnerware is necessary to protect the health or safety of residents or children of residents in care.

3. The provider shall ensure that all dishes, cups, and glasses used by residents and children of residents are free from chips, cracks, or other defects and are in sufficient number to accommodate all the residents and children of residents.

4. Animals, other than those used as service animals, shall not be permitted in food storage, preparation, and dining areas.

G. Laundry Space. The provider shall have a laundry space complete with washer and dryer.

H. Staff Quarters. The provider utilizing live-in staff shall provide adequate, separate living space with a private bathroom for these staff and their children.

I. Administrative and Discussion Space

1. The provider shall provide a space that is distinct from residents' and children of residents' living areas to serve as an administrative office for records, secretarial work, and bookkeeping.

2. The provider shall have a designated space to allow private discussions between individual residents, children of residents, and staff. If there is a window in the space, it shall have a covering to provide privacy during private discussions.

3. There shall be a covering on the window.

J. Furnishings

1. The provider shall have comfortable customary furniture as appropriate for all living areas. Furniture for the use of residents and children of residents shall be appropriately designed to suit the size and capabilities of these residents and children of residents.

2. The provider shall replace or repair broken, run-down, or defective furnishings and equipment promptly.

K. Doors and Windows

1. When opened, all windows shall have insect screening. This screening shall be readily removable in emergencies and shall be in good repair.

2. All closets, bedrooms, and bathrooms shall have doors that allow egress from both sides.

3. Each window shall have a covering to provide privacy unless otherwise stipulated in the service plan.

L. Storage

1. The provider shall ensure that there are sufficient and appropriate storage facilities.

2. The provider shall have securely locked storage space for all potentially harmful materials. Keys to such storage spaces shall only be available to authorized staff members.

M. Electrical Systems

1. The provider shall ensure that all electrical equipment, wiring, switches, sockets, and outlets are maintained in good order and safe condition.

2. The provider shall ensure that any room, corridor, or stairway within a facility shall be well lit.

3. The provider shall ensure that exterior areas are well lit when dark.

N. Heating, Ventilation and Air Conditioning (HVAC)

1. The facility shall provide safe HVAC systems sufficient to maintain comfortable temperatures in all indoor public and private areas of the facility in all seasons of the year.

2. The provider shall not use open flame heating equipment.

3. The use of portable heaters by the residents, staff, and children of residents are strictly prohibited, unless in an emergency situation.

4. The provider shall take all reasonable precautions to ensure that heating elements, including exposed hot water pipes, are insulated and installed in a manner that ensures the safety of residents and children of residents.

O. Safe Sleep Practices and Infant Furnishings

1. Only one infant shall be placed in each crib. All infants shall be placed on their backs for sleeping.

a. Written authorization from the child's physician is required for any other sleeping position. A notice of exception to this requirement shall be posted on or near the infant's crib and shall specify the alternate sleep position.

b. Written authorization from the child's physician is required for a child to sleep in a car seat or other similar device and shall include the amount of time that the child is to remain in said device. The written authorization shall be updated every three months and as changes occur.

2. Infants shall not be placed in positioning devices for sleeping unless the child has a note on file from the child's physician authorizing the device.

3. Infants who use pacifiers will be offered their pacifier when they are placed to sleep and it shall not be placed back in the mouth once the child is asleep.

4. Bibs shall not be worn by any child while asleep.

5. Infants shall not sleep in an adult bed, on a couch, or in a chair.

6. A safety-approved crib shall be made available for each infant.

a. Effective December 28, 2012, each crib in use shall meet U.S. Consumer Product Safety Commission (CPSC) requirements for full-size cribs as defined in 16 *Code of Federal Regulations* (CFR) 1219, or non full-size cribs as defined in 16 CFR 1220.

b. A crib meets the requirements of this Section if:

i. the crib has a tracking label which notes that the crib was manufactured on or after June 28, 2011; or

ii. the provider has a registration card which accompanies the crib and notes that the crib was manufactured on or after June 28, 2011; or

iii. the provider has obtained a children's product certificate (CPC) certifying the crib as meeting requirements for full-size cribs as defined in 16 *Code of Federal Regulations* (CFR) 1219, or non full-size cribs as defined in 16 CFR 1220.

7. Each crib shall be equipped with a firm mattress and well fitting sheets. Mattresses shall be of standard size so that the mattress fits the crib frame without gaps of more than one-half inch. Homemade mattresses are prohibited.

8. The minimum height from the top of the mattress to the top of the crib rail shall be 20 inches at the highest point.

9. The mattress support system shall not be easily dislodged from any point of the crib by an upward force from underneath the crib.

10. Stackable cribs are prohibited.

11. Children sleeping in playpens or mesh-sided cribs is prohibited.

12. Cribs shall be free of toys and other soft bedding, including blankets, comforters, bumper pads, pillows, stuffed animals, and wedges when the child is in the crib.

13. Nothing shall be placed over the head or face of the infant.

14. While residents are awake, napping infants shall be checked on at least every 30 minutes.

P. Care of Children

1. Diapers shall be changed immediately when wet or soiled.

2. While awake, children shall not remain in a crib/baby bed, swing, high chair, carrier, playpen, etc., for more than 30 consecutive minutes.

3. Pacifiers attached to strings or ribbons shall not be placed around a child's neck or attached to a child's clothing.

4. Staff shall adhere to proper techniques for lifting a child. Staff shall not lift a child by one or both of child's arms.

5. Children shall be changed and cleaned immediately following a toileting accident.

6. A child's request for toileting assistance shall be responded to promptly.

AUTHORITY NOTE: Promulgated in accordance with R.S.36:477 and R.S. 46:1401 et seq.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Community Service, LR 36:828 (April 2010), amended by the Department of Children and Family Services, Division of Programs, Licensing Section, LR 38:985 (April 2012), amended by the Department of Children and Family Services, Licensing Section, LR 43:285 (February 2017), LR 44:1992 (November 2018), effective December 1, 2018.

§7121. Emergency Preparedness

A. Emergency Plan

1. The provider, in consultation with appropriate state or local authorities, shall establish and follow a written multi-hazard emergency and evacuation plan to protect residents and children of residents in the event of any emergency. The written overall plan of emergency procedures shall:

a. provide for the evacuation of residents and children of residents to safe or sheltered areas. Evacuation plans shall include procedures for addressing both planned and unplanned evacuations to alternate locations within the city and long distance evacuations;

b. provide for training of staff and, as appropriate, residents and children of residents in preventing, reporting, and responding to fires and other emergencies. The plan shall be reviewed with all staff at least annually. Documentation evidencing that the plan has been reviewed with all staff shall include staff signatures and date reviewed;

c. provide for training of staff in their emergency duties for all types of emergencies and the use of any fire

fighting or other emergency equipment in their immediate work areas;

d. provide for adequate staffing in the event of an emergency;

e. ensure access to medication and other necessary supplies or equipment;

f. include shelter in place, lock down situations, and evacuations with regard to natural disasters, manmade disasters, bomb threats, and national security threats;

g. be appropriate for the area in which the facility is located and address any potential disaster due to that particular location;

h. include a system to account for all residents and children of residents whether sheltering in place, locking down, or evacuating to a pre-determined relocation site;

i. include lock down procedures for situations that may result in harm to persons inside the facility, including but not limited to a shooting, hostage incident, intruder, trespassing, disturbance, or any situation deemed harmful at the discretion of the program director or public safety personnel;

j. account for residents and children of residents and ensure that no one leaves the designated safe area in a lock down situation. Staff shall secure facility entrances, ensuring that no unauthorized individual enters the facility;

k. include an individualized emergency plan (including medical contact information and additional supplies/equipment needed) for each resident and child of a resident with special needs;

l. ensure that residents and children of residents who are prescribed prescription medication are able to receive medication if evacuated from facility;

m. include plans for nuclear evacuation if the facility is located within a 10-mile radius of a nuclear power plant or research facility;

n. include emergency contact information for staff in the event evacuation from the facility is necessary.

2. At a minimum, the plan shall be reviewed annually by the program director for accuracy and updated as changes occur. Documentation of review by the program director shall consist of the program director's signature and date.

3. The emergency and evacuation plan shall by submitted to the Licensing Section at least annually, any time changes are made, and upon the request of the Licensing Section.

4. If evacuation of children from the facility is necessary, provider shall have an evacuation pack and all staff shall know the location of the pack. The contents shall be replenished as needed. At a minimum, the pack shall contain the following:

a. hand sanitizer;

b. wet wipes;

c. tissue;

d. diapers for children who are not yet potty trained;

e. plastic bags;

f. food for all ages of children, including infant food and formula;

g. disposable cups; and

h. bottled water.

NOTE: For additional information contact the Office of Emergency Preparedness (Civil Defense) in your area.

B. Drills

1. The provider shall conduct fire drills at least once per month. There shall be at least one drill per shift every 90 days, at varying times of the day and the drills shall be documented. Effective August 1, 2016, documentation shall include:

a. date and time of drill;

b. names of residents and children of residents present;

c. amount of time to evacuate the facility;

d. problems noted during drill and corrections noted; and

e. signatures (not initials) of staff present.

2. The provider shall make every effort to ensure that staff, residents, and children of residents recognize the nature and importance of fire drills.

C. Notification of Emergencies

1. The provider shall immediately notify the Licensing Section, other appropriate agencies, and the resident's legal guardian of any fire, disaster, or other emergency that may present a danger to residents or children of residents or require their evacuation from the facility.

D. Access to Emergency Services

1. The provider shall have access to 24-hour telephone service.

2. The provider shall either prominently post telephone numbers of emergency services on or near each phone located in the facility, including the fire department, police department, medical facility, poison control (1-800-222-1222), ambulance services, 911, the facility's physical address or show evidence of an alternate means of immediate access to these services.

3. The provider shall ensure direct care staff can access emergency services at all times.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:477 and R.S. 46:1401 et seq.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Community Service, LR 36:830 (April 2010), amended by the Department of Children and Family Services, Licensing Section, LR 43:288 (February 2017).

§7123. Safety Program

A. Policies and Procedures

1. The provider shall have and adhere to policies and procedures for an on-going safety program that includes continuous inspection of the facility for possible hazards, continuous monitoring of safety equipment and investigation of all incidents.

B. General Safety Practices

1. The use or possession of any firearm (loaded or unloaded), pellet or BB gun (loaded or unloaded), or chemical weapon on the premises of the residential home is prohibited with the exception of law enforcement personnel.

2. The provider shall ensure that all poisonous, toxic, and flammable materials are safely stored in appropriate containers labeled as to contents. Such materials shall be maintained only as necessary and shall be used in a manner that ensures the safety of residents, staff, children of residents, and visitors.

3. The provider shall ensure that a first aid kit is available in the living units and in all vehicles used to transport residents or children of residents.

4. The provider shall prohibit the use of candles in the facility.

5. Power-driven equipment used by the provider shall be safe and properly maintained. Such equipment shall be used by residents only under the direct supervision of a staff member and according to state law.

6. The provider shall allow residents and children of residents to swim only in areas determined to be safe and under the supervision of a person certified/trained in American Red Cross basic water rescue or equivalent.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:477 and R.S. 46:1401 et seq.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Community Service, LR 36:831 (April 2010), amended by the Department of Children and Family Services, Licensing Section, LR 43:289 (February 2017).

§7124. Criminal Background Checks

A. Criminal Background Checks—Current Owners as of June 1, 2020

1. Effective June 1, 2020, and in accordance with Public Law 115-123 and R.S. 1587.1, provider shall submit a request for a fingerprint-based criminal background check through the Federal Bureau of Investigation (FBI) for all owners/operators. The request for the FBI check shall be submitted no later than June 12, 2020. Documentation of submission shall be available for review and submitted upon request of the Licensing Section.

2. Upon notification that the owner/operator has been convicted of a crime listed in R.S.15:587.1(C), the owner/operator shall no longer be eligible to own, operate, or participate in the governance or management of the residential home. The owner/operator can voluntarily close the business or if he/she chooses not to close the business, the license shall be immediately revoked. If the owner/operator is a member of the board or clergy, the provider shall submit a signed, dated statement to Licensing within 24 hours or no later than the next business day after the notification has been made indicating that the individual has resigned or been relieved of his position with the effective date of the resignation/removal. If the statement is not received within the aforementioned timeframe, the license shall be immediately revoked. Provider shall also submit documentation to Licensing within seven calendar days of the notification being made verifying that the individual's name has been removed from the Secretary of State's website if owned by a corporation.

3. Upon notification that additional information is required in order to make a decision, the provider has seven calendar days to submit the requested information to the requesting agency. Documentation of the date the requesting agency requested additional information shall be available for review. If the information is not submitted as requested within seven calendar days, the owner/operator shall not be present at the agency. However, if the information is not submitted within 30 calendar days, owner/operator can voluntarily close the business or if he/she chooses not to close the business, the license shall be immediately revoked. If the owner/operator is a member of the board or clergy, the provider shall submit a signed, dated statement to Licensing within 24 hours or no later than the next business day after the thirtieth day indicating that the individual has resigned or been relieved of his position with the effective date of the resignation/removal. If the statement is not received within the aforementioned timeframe, the license shall be immediately revoked. Provider shall also submit documentation to Licensing within seven calendar days after the thirtieth day verifying that the individual's name has been removed from the Secretary of State's website if owned by a corporation.

4. This check shall be obtained prior to the addition of a board member who meets the definition of an owner, an individual being present on the premises, or an individual having access to residents and/or children of residents.

5. No person shall own, operate, or participate in the management or governance of a residential home until such person has submitted his or her fingerprints through the FBI and it has been determined that such person has not been convicted of, or pled guilty or *nolo contendere* to any crime listed in R.S. 15:587.1(C).

6. Any owner or operator who is convicted of, or pled guilty or *nolo contendere* to any crime listed in R.S. 15:587.1(C) shall not continue in the management or governance after such conviction, guilty plea, or plea of *nolo contendere*.

7. The following is a listing of individuals by organizational type who are required to submit documentation to Licensing of a satisfactory fingerprint-based criminal background clearance through the FBI:

a. *Individual Ownership*—individual and spouse listed on the licensing application submitted and who have access to the residents and/or children of residents in care of the provider and/or residents and/or children of residents who receive services from the provider and/or who are present at any time on the facility premises when residents and/or children of residents are present;

b. *Partnership*—all limited or general partners and managers who are listed on the licensing application submitted and who have access to the residents and/or children of residents in care of the provider and/or residents and/or children of residents who receive services from the provider, and/or who are present at any time on the facility premises when residents and/or children of residents are present;

c. *Church Owned, University Owned* or *Governmental Entity*—any clergy and/or board member who is listed on the licensing application submitted and who has access to the residents and/or children of residents in care of the provider, and/or residents and/or children of residents who receive services from the provider, and/or who is present at any time on the facility premises when residents and/or children of residents are present; or

d. *Corporation* (includes limited liability companies)—individual(s) who is registered as an officer of the board with the Louisiana Secretary of State and/or listed on the licensing application submitted and who has access to the residents and/or children of residents in care of the provider, and/or residents and/or children of residents who receive services from the provider, and/or who is present at any time on the facility premises when residents and/or children of residents are present.

8. When an individual is listed on the licensing application or the Secretary of State's website as an officer and does not have access to residents and/or children of residents in care or who receive services from the provider and/or is not present at any time on the facility premises when residents and/or children of residents are present, a DCFS approved attestation form signed and dated by the individual is acceptable in lieu of a satisfactory fingerprint-based CBC through the FBI. The attestation form shall be accepted for a period of one year from the date individual signed the attestation form.

9. Criminal background clearances are not transferable between owners.

B. Criminal Background Checks—Prospective owners effective June 1, 2020

1. Effective June 1, 2020, and in accordance with Public Law 115-123 and R.S. 15:587.1, documentation of a satisfactory fingerprint-based criminal background check through the Federal Bureau of Investigation (FBI) for all owners/operators is required prior to the date the initial license is issued. The satisfactory criminal record check shall be dated prior to the issuance of the license, but no earlier than 45 days prior to the initial application being received by the Licensing Section. Documentation of a satisfactory fingerprint-based FBI check shall be available for review.

2. This check shall be obtained prior to the license being issued, the addition of a board member who meets the definition of an owner, an individual being present on the premises, or an individual having access to residents and/or children of residents.

3. No person shall own, operate, or participate in the management or governance of a residential home until such person has submitted his or her fingerprints through the FBI and it has been determined that such person has not been convicted of, or pled guilty or *nolo contendere* to any crime listed in R.S. 15:587.1(C).

4. Any owner or operator who is convicted of, or pled guilty or *nolo contendere* to any crime listed in R.S. 15:587.1(C) shall not continue in the management or governance after such conviction, guilty plea, or plea of *nolo contendere*.

5. The following is a listing of individuals by organizational type who are required to submit documentation to Licensing of a satisfactory fingerprint-based criminal background clearance through the FBI:

a. *Individual Ownership*—individual and spouse listed on the licensing application submitted and who have access to the residents and/or children of residents in care of the provider and/or residents and/or children of residents who receive services from the provider and/or who are present at any time on the facility premises when residents and/or children of residents are present;

b. *Partnership*—all limited or general partners and managers who are listed on the licensing application submitted and who have access to the residents and/or children of residents in care of the provider and/or residents and/or children of residents who receive services from the provider, and/or who are present at any time on the facility premises when residents and/or children of residents are present;

c. *Church Owned, University Owned* or *Governmental Entity*—any clergy and/or board member who is listed on the licensing application submitted and who has access to the residents and/or children of residents in care of the provider, and/or residents and/or children of residents who receive services from the provider, and/or who is present at any time on the facility premises when residents and/or children of residents are present; or

d. *Corporation* (includes limited liability companies)—individual(s) who is registered as an officer of the board with the Louisiana Secretary of State and/or listed on the licensing application submitted and who has access to the residents and/or children of residents in care of the provider, and/or residents and/or children of residents who receive services from the provider, and/or who is present at any time on the facility premises when residents and/or children of residents are present.

6. When an individual is listed on the licensing application or the Secretary of State's website as an officer and does not have access to residents and/or children of residents in care or who receive services from the provider and/or is not present at any time on the facility premises when residents and/or children of residents are present, a DCFS approved attestation form signed and dated by the individual is acceptable in lieu of a satisfactory fingerprint-based CBC through the FBI. The attestation form shall be accepted for a period of one year from the date individual signed attestation form.

7. CBCs/attestation forms shall be dated prior to the initial license being issued, but no earlier than 45 days prior to the initial application being received by the Licensing Section.

8. Criminal background clearances are not transferable between owners.

C. Criminal Background Checks for Current Staff and Volunteers as of June 1, 2020

1. Effective June 1, 2020, and in accordance with Public Law 115-123 and R.S. 15:587.1, provider shall submit a request for a fingerprint-based criminal background check through the Federal Bureau of Investigation (FBI) for all currently employed staff (paid and non-paid staff and volunteers). The request shall be submitted to the FBI no later than June 12, 2020. Documentation of submission shall be available for review and submitted upon request of the Licensing Section.

2. Upon notification that the staff person has been convicted of a crime listed in R.S.15:587.1(C), the individual shall no longer be eligible for employment or able to provide services for the provider. The provider shall submit a signed, dated statement to Licensing within 24 hours or no later than the next business day after notification has been made indicating that the staff has been terminated or individual will no longer be providing services. If this statement is not received by Licensing within the aforementioned timeframe, the license shall be immediately revoked.

3. Upon notification that additional information is required in order to make a decision, the provider has seven calendar days to submit the requested information to the requesting agency. Documentation of the date the requesting agency requested additional information shall be available for review. If the information is not submitted as requested within seven calendar days, the individual is ineligible to return to work or provide services. The provider shall submit a signed, dated statement to Licensing within 24 hours or no later than the next business day after the seventh day indicating that the individual has been suspended or no longer providing services. However, if the information is not submitted within 30 calendar days, the individual shall be terminated or no longer eligible to provide services for the provider. If the information is not submitted before the thirty-first calendar day following the request for information, the individual shall be terminated or no longer eligible to provide services for the provider. The provide shall submit a signed, dated statement to Licensing within 24 hours or no later than the next business day after the thirtieth day indicating that the individual has been relieved of his position with the effective date of the termination/removal. If the statement is not received within the aforementioned timeframe, the license shall be immediately revoked.

4. No person who has been convicted of, or pled guilty or *nolo contend*ere to any offense included in R.S. 15:587.1(C), shall be present in any capacity in the facility.

5. CBC shall be dated no earlier than 45 days of the individual being present in the facility or having access to the residents and/or children of residents.

6. Criminal background clearances are not transferable between owners.

D. Criminal Background Checks for Prospective Staff and Volunteers effective June 1, 2020

1. Effective June 1, 2020, and in accordance with Public Law 115-123 and R.S. 15:587.1, documentation of a satisfactory criminal background check through the Federal Bureau of Investigation (FBI) is required prior to the individual (paid and non-paid staff and volunteers) being present in the facility or having access to residents and/or children of residents. No person who has been convicted of, or pled guilty or *nolo contendere* to any offense included in R.S. 15:587.1(C) shall be hired by or present in any capacity in the facility.

2. Criminal background checks (CBC) through the Federal Bureau of Investigation (FBI) shall be dated no earlier than 45 days of the individual being present in the facility or having access to the residents and/or children of residents.

3. No person who has been convicted of, or pled guilty or *nolo contendere* to any offense included in R.S. 15:587.1(C), shall be hired by or present in any capacity in the facility.

4. No person who is convicted of or has pled *nolo contendere* to any crime listed in R.S. 15:587.1(C) shall continue employment or to provide services after such conviction or *nolo contendere* plea.

5. Criminal background clearances are not transferable between owners.

E. Criminal Background Checks for Current Contractors as of June 1, 2020

1. Effective June 1, 2020, and in accordance with Public Law 115-123 and R.S. 15:587.1, provider shall submit a request for a criminal background check through the Federal Bureau of Investigation (FBI) for all current contractors. The request shall be submitted to the FBI no later than June 12, 2020. Documentation of submission shall be available for review and submitted upon request of the Licensing Section.

2. Upon notification that the contractor has been convicted of a crime listed in R.S.15:587.1(C), the individual shall no longer be eligible to provide services for

the provider. The provider shall submit a signed, dated statement to Licensing within 24 hours or no later than the next business day after notification has been made indicating that the contract has been terminated and the individual is no longer allowed access to the residents and/or children of residents. If this statement is not received by Licensing within the aforementioned timeframe, the license shall be immediately revoked.

3. Upon notification that additional information is required in order to make a decision, the provider has seven calendar days to submit the requested information to the requesting agency. Documentation of the date the requesting agency requested additional information shall be available for review. If the information is not submitted as requested within seven calendar days, the individual is ineligible to return to work or provide services. The provider shall submit a signed, dated statement to Licensing within 24 hours or no later than the next business day after the seventh day indicating that the individual has been suspended or no longer providing services. However, if the information is not submitted within 30 calendar days, the individual shall be terminated or no longer eligible to provide services for the provider. If the information is not submitted before the thirty-first calendar day following the request for information, the individual shall be terminated or no longer eligible to provide services for the provider. The provide shall submit a signed, dated statement to Licensing within 24 hours or no later than the next business day after the seventh day indicating that the individual has been relieved of his position with the effective date of the termination/removal. If the statement is not received within the aforementioned timeframe, the license shall be immediately revoked.

4. A person shall not be deemed a contractor if he/she is a staff person of the facility.

5. No person who has been convicted of, or pled guilty or *nolo contendere* to any offense included in R.S. 15:587.1(C), shall be present in any capacity in the facility.

6. Criminal background checks are not transferable between owners.

F. Criminal Background Checks for Prospective Contractors effective June 1, 2020

1. Contractors hired to perform work which involves contact with residents and/or children of residents shall be required to have documentation of a satisfactory fingerprint-based criminal background check through the Federal Bureau of Investigation (FBI) as required by R.S. 15:587.1 and R.S. 46:51.2. This check shall be obtained prior to the individual being present in the facility or having access to the residents and/or children of residents.

2. No person who has been convicted of, or pled guilty or *nolo contendere* to any offense included in R.S. 15:587.1(C), shall be hired by or present in any capacity in the facility.

3. This check shall be obtained prior to the individual being present in the facility or having access to the residents and/or children of residents.

4. Criminal background checks (CBC) shall be dated no earlier than 45 days of the individual being present in the facility or having access to the residents and/or children of residents.

5. A person shall not be deemed a contractor if he/she is a staff person of the facility.

6. Criminal background checks are not transferable between owners.

G. Criminal Background Checks for Louisiana Department of Education (LDE) Staff effective June 1, 2020

1. Effective June 1, 2020, provider shall provide documentation that a fingerprint-based satisfactory criminal background check (CBC) through the Federal Bureau of Investigation (FBI) as required by R.S. 15:587.1 and R.S. 17:15 for all Louisiana Department of Education staff or local school district staff that interact with children/youth prior to the individual providing services to children/youth has been conducted. This check shall be obtained prior to the individual being present in the facility or providing services for the facility. No person who has been convicted of, or pled guilty or *nolo contendere* to any offense included in R.S. 15:587.1, shall be present in any capacity in any licensed facility.

a. For the first school year that a LDE staff person or local school district staff person provides services to a child or children, that LDE staff person or local school district staff person shall provide documentation of a fingerprint-based satisfactory criminal record check through the Federal Bureau of Investigation (FBI) as required by R.S 17:15 and R.S. 15:587.1(C) or shall provide the original, completed, signed, notarized, DCFS-approved affidavit dated June 1, 2020, or after to the provider prior to being present and working with a child or children at the facility. A photocopy of the original affidavit shall be kept on file at the facility. This affidavit will be acceptable for the entire school year noted in the text of the affidavit and expires on May thirty-first of the current school year. For all subsequent school years following the first year, the LDE staff or local school district staff person shall present a new affidavit or an original, completed, and signed letter from the superintendent of the school district or designee or superintendent of LDE or designee noting that the individual continues to meet certain specific requirements. The provider will need to view the original letter presented by the LDE staff or local school district staff person and keep a photocopy of the original letter on file at the facility. This letter will be acceptable for the entire school year noted in the text of the letter and expires on May thirty-first of the current school year. The letter is acceptable only if all the following conditions are met:

i. the LDE staff person or local school district staff person has remained employed with the same school district as noted in the affidavit the provider has on file;

ii. the provider has maintained a copy of the affidavit on file; and

iii. the letter is presented on school district letterhead or LDE letterhead and signed by the superintendent of the school district or designee or superintendent of LDE or designee;

iv. the letter notes the following:

(a). individual is an employee and/or representative of the school district for the ex. (2020-2021) school year and is not employed or contracted on an emergency basis nor pursuant to written approval of any district judge or district attorney under to La. R.S. 17:15(A). As a prerequisite of employment and/or representative status, he/she underwent a criminal background check as required by La. R.S. 17:15 and La. R.S. 15:587.1.

(b). the superintendent or designee certifies that, according to that criminal background check, he/she has not been convicted of, or pled guilty or nolo contendre to, any of the criminal offenses set forth in La. R.S. 17:15 and/or La. R.S.15:587.1(C).

(c). the superintendent or designee certifies that he/she will notify the Director of DCFS Licensing in writing if superintendent/designee becomes aware that the individual is convicted of an offense enumerated in La. R.S. 17:15 and/or 15:587.1(C) during the school year which nullifies the affidavit and/or letter.

2. No person who has been convicted of, or pled guilty or *nolo contendere* to any offense included in R.S. 15:587.1(C), shall be hired by or present in any capacity in the facility.

3. Criminal background clearances are not transferable between owners.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15.5871.

HISTORICAL NOTE: Promulgated by the Department of Children and Family Services, Licensing Section, LR 46:675 (May 2020), effective June 1, 2020.

Chapter 73. Child Placing Agencies—General Provisions

§7301. Purpose

A. In accordance with R.S. 46:1402, it is the intent of the legislature to protect the health, safety, and well-being of the children and youth of the state who are in out-of-home care on a regular or consistent basis. Toward that end, it is the purpose of this Chapter to establish statewide minimum standards for the safety and well-being of children and youth, to insure maintenance of these standards, and to regulate conditions in these facilities through a program of licensing. It shall be the policy of the state to insure protection of all individuals under care by specialized providers and to encourage and assist in the improvement of programs. It is the further intent of the legislature that the freedom of religion of all citizens shall be inviolate. This Chapter shall not give the Department of Health or the Department of Children and Family Services jurisdiction or authority to regulate, control, supervise, or in any way be involved in the form, manner, or content of any curriculum or instruction of a school or specialized provider sponsored by a church or religious organization so long as the civil and human rights of the children and youth are not violated.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1407(D).

NOTE: HISTORICAL NOTE: Promulgated by the Department of Children and Family Services, Licensing Section, LR 45:352 (March 2019), effective April 1, 2019.

§7303. Authority—Foster Care, Adoption, Transitional Placing

A. Legislative Provisions

1. The Specialized Provider Licensing Act, Act 286 of 1985 as amended (R.S. 46:1401et seq.) is the legal authority under which the department prescribes minimum standards for the health, safety, and well-being of children placed in foster care and adoption. The rules are in LAC 67:V., Subpart 8, Chapter 73.

2. In accordance with R.S.46:1403.1, notwithstanding any other provision of law to the contrary, a child in foster care may stay in foster care until his twenty-first birthday to complete any educational course that he began while in foster care including but not limited to a General Education Development course.

3. Public Law 96-272, the Adoption Assistance and Child Welfare Act of 1978 and Act 429 of 1981 authorizes the Louisiana Legislature to make permanency planning for children in foster care a matter of federal and state law and public social policy.

4. Public Law 103-382, the Multiethnic Placement Act of 1994, as amended by Public Law 104-188, the Interethnic Placement Act, the U.S. Constitution, and Title VI of the Civil Rights Act of 1964 provide that an entity which receives federal financial assistance and is involved in adoption or foster care placements may not discriminate on the basis of the race, color, or national origin of the adoptive or foster parent or the child involved. Providers receiving federal funds may not use standards related to income, age, education, family structure and size, or ownership of housing to exclude groups of prospective parents on the basis of race, color, or national origin, where these standards are arbitrary or unnecessary or where less exclusionary standards are available.

5. Providers shall comply with the requirements of the Americans with Disabilities Act, 42 U.S.C. §12101 et seq. (ADA) and regulations promulgated pursuant to the ADA, 28 C.F.R. Parts 35 and 36 and 49 C.F.R. Part 37; §504 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. §794, and regulations promulgated pursuant thereto, including 45 C.F.R. Part 84, which includes the right to receive services in the most integrated setting appropriate to the needs of the individual; obtain reasonable modifications of practices, policies, and procedures where necessary (unless such modifications constitute a fundamental alteration of the provider's program or pose undue administrative burdens); receive auxiliary aids and services to enable equally

effective communication; equivalent transportation services; and physical access to a provider's facilities.

6. Providers shall comply with the requirements of Children's Code 1167 et seq. with regard to adoptions.

B. Facilities Requiring a License

1. In accordance with R.S. 46:1403, a child-placing agency means any institution, society, agency, corporation, facility, person or persons, or any other group engaged in placing children in foster care or with substitute parents for temporary care or for adoption, or engaged in assisting or facilitating the adoption of children, or engaged in placing youth in transitional placing programs, but shall not mean a person who may occasionally refer children for temporary care.

2. Any agency applying for a child-placing agency license in Louisiana shall have an office and staff in Louisiana.

3. Any out-of-state agency placing a child in Louisiana shall have a license issued by the state in which the main office is located and either make placements in Louisiana in cooperation with the Interstate Compact on the Placement of Children (ICPC) and a child-placing agency licensed in Louisiana or have an office and staff in Louisiana with a Louisiana child-placing agency license.

4. All child-placing agency locations shall be licensed; satellite and branch offices are not permitted.

C. Exemptions

1. In accordance with R.S. 46:1415, all care given without charge, shall be exempt from provisions of R.S. 46:1401 et seq.

2. In accordance with R.S.46:1404, child placing agencies within the Department of Children and Family Services shall be exempt from the provisions of R.S. 46:1401 et seq. The department is authorized and mandated to perform its child-placing functions in accordance with the standards promulgated by the department for licensed child-placing agencies.

D. Penalties

1. As mandated by R.S. 46:1421, whoever operates as a specialized provider, as defined in R.S. 46:1403, without a valid license issued by the department shall be fined not less than $1,000 per day for each day of such offense.

E. Waiver Request

1. In accordance with R.S. 46:1407(E), the secretary of the department, in specific instances, may waive compliance with a standard, upon determination that the economic impact is sufficiently great to make compliance impractical, as long as the health and well-being of the staff or children and youth are not imperiled.

2. A request for a waiver shall be submitted by a provider to DCFS Licensing Section staff. A request for a waiver shall provide the following information: the standard to be waived, an explanation of the reasons why the standard cannot be met, and why a waiver is being requested, including information demonstrating that the economic impact is sufficiently great to make compliance impractical.

3. All requests for a waiver will be responded to in writing by the DCFS Secretary. A copy of the waiver decision shall be kept on file at the child-placing agency and presented to licensing staff during all licensing inspections, if requested.

4. A waiver is issued at the discretion of the Secretary and continues in effect at his/her pleasure. The waiver may be revoked by the secretary at any time, either upon violation of any condition attached to it at issuance, or upon occurrence of any resolutory or suspensive condition affecting the waiver, or upon failure of any of the statutory prerequisites to issuance of a waiver (i.e., the cost of compliance is no longer so great as to be impractical or the health or safety of any staff or any child/youth is imperiled), or upon his/her determination that continuance of the waiver is no longer in the best interest of the DCFS.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1407(D).

HISTORICAL NOTE: Promulgated by the Department of Children and Family Services, Licensing Section, LR 45:352 (March 2019), effective April 1, 2019.

§7305. Definitions—Foster Care, Adoption, Transitional Placing

Abuse—any of the following acts which seriously endangers the physical, mental, or emotional health and safety of the child.

1. The infliction, attempted infliction, or as a result of inadequate supervision, allowing the infliction or attempted infliction of physical or mental injury upon the child by a parent or any other person.

2. The exploitation or overwork of a child by a parent or any other person, including, but not limited to commercial sexual exploitation of the child.

3. The involvement of the child in any sexual act with a parent or any other person, or the aiding or toleration by the parent, caretaker, or any other person of the child's involvement in any of the following:

a. any sexual act with any other person;

b. pornographic displays;

c. any sexual activity constituting a crime under the laws of this state; or

d. the coerced abortion conducted upon a child.

Adoption Disruption—the interruption of an adoption after placement of the child and before legal finalization of the adoption.

Affiliate—

1. with respect to a partnership, each partner thereof;

2. with respect to a corporation, each officer, director and stockholder thereof;

3. with respect to a natural person, that person and any individual related by blood, marriage, or adoption within the third degree of kinship to that person; any partnership, together with any or all its partners in which that person is a partner; and any corporation in which that person is an officer, director or stockholder, or holds, directly or indirectly, a controlling interest;

4. with respect to any of the above, any mandatory, agent, representative, or any other person, natural or juridical, acting at the direction of or on behalf of the licensee or applicant; or

5. administrator, executive director, or program director of any such DCFS licensed agency or facility.

Age or *Developmentally Appropriate Activities* or *Items*—activities or items that are generally accepted as suitable for children/youth of the same chronological age or level of maturity or that are developmentally appropriate, based on the cognitive, emotional, physical, and behavioral capacities that are typical for an age or age group; and in the case of a specific child/youth, activities or items that are suitable for that child/youth based on developmental stages attained with respect to cognitive, emotional, physical, and behavioral capacities.

Agency—any place, program, agency operated or required by law to operate under a license, including facilities owned or operated by any governmental, profit, nonprofit, private, or church entity.

Anniversary—licensure year determined by the month in which the initial license was issued to the child-placing agency and in which the license is eligible for renewal each year.

Approved Home—physical address of a home which has been determined by the child-placing agency to meet all the requirements noted herein.

Babysitting—care arranged for and paid for by foster/adoptive parents for foster/adoptive children in the absence of the foster/adoptive parents.

Birth Certificate—official document issued to record a person's birth, which includes identifying data such as name, gender, date of birth, place of birth, and parentage.

Case Plan—plan developed by DCFS child welfare to establish short and long term goals based on the strengths and needs of the family and child/youth.

Change of Location (CHOL)—change of physical address of the child-placing agency.

Change of Ownership (CHOW)—transfer of ownership of a currently licensed child-placing agency to someone other than the owner listed on the initial application without a break in service. Ownership of the business, not the building, determines the owner. Sale of the juridical entity or lease of the business also constitutes a change of ownership.

Chemical Restraint—medication or drug administered to control behavior or to sedate.

Child—a person who has not reached the age eighteen or otherwise been legally emancipated. The words "child" and "children" are used interchangeably throughout this chapter.

Child-placing agency (CPA)—any institution, society, agency, corporation, facility, person or persons, or any other group engaged in placing children in foster care or with substitute parents for temporary care or for adoption or engaged in assisting or facilitating the adoption of children, or engaged in placing youth in transitional placing programs, but shall not mean a person who may occasionally refer children for temporary care.

Child Welfare (CW)—Division within the Department of Children and Family Services.

Complaint—an allegation that any person is violating any provision of these standards or engaging in conduct, either by omission or commission, that negatively affects the health, safety, rights, and/or welfare of any child/youth receiving services from a child-placing agency.

Contractor—any person who renders professional services, therapeutic services, enrichment services, or counseling to children/youth such as educational consulting, athletic, or artistic services within a child-placing agency, whose services are not integral to either the operation of the child-placing agency or to the care and supervision of children/youth. Contractors may include, but are not limited to social workers, counselors, dance instructors, gymnastic or sports instructors, computer instructors, speech therapists, licensed health care professionals, art instructors, state-certified teachers employed through a local school board, and other outside contractors. A person shall not be deemed a contractor if he is a staff person of the child-placing agency.

Criminal Background Check (CBC)—a review of any and all records containing any information collected and stored in the criminal record repository of the Federal Bureau of Investigation, the state Department of Public Safety, and/or any other repository of criminal records, involving a pending arrest or conviction by a criminal justice agency, including, but not limited to, child abuse crime information, conviction record information, fingerprint cards, correctional induction and release information, identifiable descriptions and notations of convictions; provided, however, dissemination of such information is not forbidden by order of any court of competent jurisdiction or by federal law.

DAL—the Division of Administrative Law.

DCFS—the Department of Children and Family Services.

Department—the Department of Children and Family Services.

Dependent Adult—a person who is 18 years of age or older who is dependent upon foster/adoptive parents for physical and/or developmental care or support and would be in danger if care or support is withdrawn.

Dependent Child—a person who is under the age of 18 years who is dependent upon foster/adoptive parents for

physical and/or developmental care or support and would be in danger if care or support is withdrawn.

Discipline—positive corrective action used to manage inappropriate behavior in children/youth.

Disqualification Period—the prescriptive period during which the department shall not process an application from a provider. Any unlicensed operation during the disqualification period shall interrupt running of prescription until the department has verified that the unlicensed agency/facility has ceased operating.

Documentation—written evidence or proof, signed and dated by parties involved (executive director, program director, foster/adoptive parent, staff, children, youth, etc.), on site and available for review.

Emergency Removal—a disruption of the current placement whereby removal of the child within 48 hours is requested.

Executive Director—the individual responsible for the management, administration, and supervision of the child-placing agency.

Existing Child-placing agency—a provider with a valid license at a particular location prior to the effective date of these standards.

Foster Care—placement of a child/youth in a foster home, a relative's home, residential home, or other living arrangement approved and supervised by the state for the provision of substitute care for a child.

Foster Home—a private home of one or more persons who provide continuous 24-hour substitute parenting for one to six children living apart from their parent(s) or guardians who are placed for foster care under the supervision of the department or a licensed child-placing agency.

Foster Parent—an individual(s) who provides foster care with the approval and under the supervision of the department or of a licensed child-placing provider.

Full-Time—employment by which a person works a minimum of 35 hours Monday through Friday each week.

Functional Literacy—the ability to read and write at the level necessary to participate effectively in society.

Human Service Field—the field of employment related to social services such as social work, psychology, sociology, special education, nursing, rehabilitation counseling, criminal justice, juvenile justice, and/or corrections.

Home Study—a comprehensive evaluation of the home environment and life of prospective foster and adoptive parents conducted in accordance with applicable requirements of the state in which the home is located to determine the suitability of the family to meet the individual needs of a child, including the child's safety, permanency, health, well-being, and mental, emotional, and physical development.

Injury of Unknown Origin—an injury where the source was not observed by any person and/or could not be explained by the child/youth and is suspicious due to the extent of the injury or its location (e.g.,an injury located in an area not generally vulnerable to trauma).

Intercountry—adoption of a child from another country.

Interstate Compact on the Placement of Children (ICPC)—procedures for ensuring the safety and stability of placements of children across state lines.

Juridical Person/Entity—a limited liability company, partnership, corporation, church, university, or governmental department/agency.

Legal Custody—the right to have physical custody of a child and to determine where and with whom the child shall reside; to exercise the rights and duty to protect, train, and discipline the child; the authority to consent to major medical, psychiatric, and surgical treatment; and to provide the child with food, shelter, education, and ordinary medical care, all subject to any residual rights possessed by the child's parents.

Legal Guardian—a person or agency with the legal authority and corresponding duty to care for the person and property of a child/youth.

Legal Guardianship—a legal relationship created between a minor and a guardian, which may be a person or institution, that gives the guardian certain rights and obligations such as the authority to make decisions regarding the life and development of the minor and the minor's general welfare until he/she reaches the age of majority.

License—a certification issued by the department to operate a child-placing agency as defined in R.S. 46:1403.

Licensing deficiency review—formalized process by which a provider may challenge deficiencies cited during a licensing inspection that the provider contends are in whole or part factually inaccurate.

Lifebook—a record chronicling accomplishments, milestones, and important persons in a child's life through pictures, words, art, awards, ribbons, and memorabilia.

Living Unit—a house, mobile home, or apartment.

LSP—Louisiana State Police.

Mechanical Restraint—an approved professionally manufactured device used to modify the behavior of a child/youth by restricting his/her free movement.

Medication—drugs, topicals, or other remedies used to treat illness or injury or relieve pain whether over-the-counter or prescribed.

Medically Fragile—a child/youth with intensive care needs due to chronic and severe conditions and/or functional limitations requiring skilled care from a health care professional or specially trained family or foster family member.

Natural Person—a human being and if that person is married and not judicially separated or divorced, the spouse of that person.

Neglect—the refusal or unreasonable failure of a parent or caretaker to supply the child with necessary food, clothing, shelter, care, treatment, or counseling for any injury, illness, or condition of the child, as a result of which the child's physical, mental, or emotional health and safety is substantially threatened or impaired.

Owner or *Operator*—individual or juridical entity exercising direct or indirect control over a licensing entity. For licensing purposes the following are considered owners:

1. *Individual Ownership*—individual and spouse listed on the licensing application submitted and who have access to the children/youth in care of the provider and/or children/youth who receive services from the provider and/or who are present at any time on the agency premises when children/youth are present;

2. *Partnership*—all limited or general partners and managers who are listed on the licensing application submitted and who have access to the children/youth in care of the provider and/or children/youth who receive services from the provider, and/or who are present at any time on the agency premises when children/youth are present;

3. *Church Owned*, *University Owned* or *Governmental Entity*—any clergy and/or board member who is listed on the licensing application submitted and who has access to the children/youth in care of the provider, and/or children/youth who receive services from the provider, and/or who is present at any time on the agency premises when children/youth are present; or

4. *Corporation* (includes limited liability companies)—individual(s) who is registered as an officer of the board with the Louisiana Secretary of State and/or listed on the licensing application submitted and who has access to the children/youth in care of the provider, and/or children/youth who receive services from the provider, and/or who is present at any time on the agency premises when children/youth are present.

Ownership—the right that confers on a person direct, immediate, and exclusive authority over a thing. The owner of that thing may use, enjoy, and dispose of the thing within the limits and under the conditions established by law.

1. *Direct Ownership*—the owner is a natural person with sole control of the child-placing agency.

2. *Indirect Ownership*—the owner is a juridical entity.

Parent—any living person who is presumed to be a parent under the Civil Code or a birth or adoptive mother or father of a child.

Physical Restraint—emergency physical intervention used to restrict movement of the arms, legs, body or head of a child/youth which includes holding a child in a manner that restricts movement.

Program Director—the individual with authority and responsibility for the on-site daily operation of the child-placing agency as recorded with the licensing section.

Posted—prominently displayed in a conspicuous location in an area accessible to and regularly used by children/youth and/or staff.

Provider—child-placing agency.

Public Law 115-123—Title VII Family First Prevention Services Act

Reasonable and Prudent Parent Standard—standard that a caregiver shall use when determining whether to allow a child in foster care under the responsibility of the state to participate in extracurricular, enrichment, cultural, and social activities. The standard is characterized by careful and sensible parental decisions that maintain the health, safety, and best interests of a child while at the same time encouraging the emotional and developmental growth of the child.

Reasonable and Prudent Parent Training—training that includes knowledge and skills relating to the reasonable and prudent parent standard for the participation of the child in age or developmentally appropriate activities. This includes knowledge and skills relating to the developmental stages of the cognitive, emotional, physical, and behavioral capacities of a child and knowledge and skills relating to applying the standard to decisions such as whether to allow the child to engage in social, extracurricular, enrichment, cultural, and social activities. Activities include sports, field trips, and overnight activities lasting one or more days. Also included is knowledge and skills in decisions involving the signing of permission slips and arranging of transportation for the child to and from extracurricular, enrichment, and social activities.

Reasonable Suspicion—to have or acquire information containing specific and articulable facts indicating that an owner, operator, current or potential employee, or volunteer has been investigated and determined to be the perpetrator of abuse and/or neglect of a minor with a justified (valid) finding currently recorded on the state central registry.

Related or *Relative*—a natural or adopted child or grandchild of the caregiver or a child in the legal custody of the caregiver.

Respite Care—temporary care arranged by or paid for by the child-placing agency to provide relief to foster or adoptive parents.

Service Plan—a written plan of action developed by the child-placing agency for each individual child that identifies needs, sets goals, and describes strategies and timelines for achieving goals.

Shall or *Must*—mandatory.

Should—advised or may.

Staff—full or part-time paid or non-paid child-placing agency personnel who perform services for the child-placing

agency and have direct or indirect contact with children/youth.

State Central Registry (SCR)—repository that identifies individuals with certain justified (valid) findings of abuse and/or neglect of a child or children by the Department of Children and Family Services.

Substantial Bodily Harm—a physical injury such that a prudent person would conclude that the injury required professional medical attention. It does not include minor bruising, the risk of minor bruising, or similar injuries that heal without professional medical attention.

Supervision—the function of observing, overseeing, and guiding a child/youth which includes awareness of and responsibility for the ongoing activity of each child/youth requiring accountability for their care, knowledge of their activities and whereabouts, and knowledge of their individual abilities and needs.

Temporary Closure—closure of more than 14 calendar days, but less than 30 calendar days.

Therapeutic Foster Care—foster care that accommodates a child or youth whose need for prolonged specialized care and supervision requires continuous professional oversight preventing placement in a standard foster home.

Transitional Placing Program—a program that places youth, at least 16 years of age and not older than 21 years of age, in an independent living situation supervised by a provider with the goal of preparing the youth for living independently without supervision.

Type IV License—license held by any publicly or privately owned child-placing agency provider.

Unlicensed Operation—operation of any specialized provider at any location, without a valid, current license issued by the department.

Visitor—anyone who enters a child-placing agency other than child-placing agency staff, contractor, therapeutic professionals, and in the case of a church or school, pastor, principal, teacher, etc.

Volunteer—an individual who provides services for the provider and whose work is uncompensated. This may include students, interns, tutors, counselors, and other non-staff individuals who may or may not work directly with children.

Waiver—an exemption from compliance with a regulation granted by the secretary of the department.

Youth—a person not less than sixteen years of age nor older than twenty-one years of age.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1407(D).

HISTORICAL NOTE: Promulgated by the Department of Children and Family Services, Licensing Section, LR 45:353 (March 2019), effective April 1, 2019.

§7307. Initial Application

A. Initial Licensing Application Process—Foster Care, Adoption, Transitional Placing

1. An initial application for licensing as a child-placing agency provider shall be obtained from the department.

Department of Children and Family Services
Licensing Section
P. O. Box 260036
Baton Rouge, LA 70826
Phone: (225) 342-4350
Fax: (225) 219-4363
Web address: www.dcfs.louisiana.gov

2. A completed initial license application packet for an applicant shall be submitted to and approved by the department prior to an applicant providing child-placing agency services. The completed initial licensing packet shall include:

a. completed application and non-refundable fee;

b. current Office of Fire Marshal approval for occupancy as noted in §7313.B;

c. current Office of Public Health, Sanitarian Services approval as noted in §7313.B;

d. current city fire department approval as noted in §7313.B;

e. city or parish building permit office approval for new construction or renovations;

f. local zoning approval, if applicable;

g. organizational chart or equivalent list of staff positions and supervisory chain of command;

h. verification of experience and educational requirements for the program director;

i. list of consultant/contract staff to include name, contact info, and responsibilities;

j. list of all staff (paid, non-paid, and volunteers) and their position;

k. copy of the completed reasonable and prudent parent authorized representative form if providing transitional placing services to youth in DCFS custody;

l. three signed reference letters dated within 12 months prior to hire for program director attesting affirmatively to his/her character, qualifications, and suitability to manage the program;

m. copy of current general liability coverage;

n. copy of current property insurance or rental insurance for transitional placing locations;

o. copy of current insurance coverage for child-placing agency and staff owned vehicles used to transport children/youth; and

p. any other documentation or information required by the department for licensure.

3. If the initial licensing packet is incomplete, the applicant will be notified of the missing information and will have 180 calendar days to submit the additional requested information. If the department does not receive the requested information within the 180 calendar days, the application will be closed and the fee forfeited. After an initial licensing application is closed, an applicant who is still interested in becoming a child-placing agency shall submit a new initial licensing packet and fee to begin the initial licensing process.

4. Once the department has determined the initial licensing packet is complete, DCFS will attempt to contact the applicant to schedule an initial inspection; however, it is the applicant's responsibility to coordinate the initial inspection. If an applicant fails to schedule the initial inspection within 45 calendar days of the notification, the initial licensing application shall be closed and fee forfeited. After an initial licensing application is closed, an applicant who is still interested in becoming a child-placing agency provider shall submit a new initial licensing packet and fee to begin the initial licensing process.

5. After the completed application and non-refundable fee have been received by the Licensing Section, DCFS will notify the Office of State Fire Marshal, office of city fire department (if applicable), and Office of Public Health that an application for licensure has been submitted. However, it is the applicant's responsibility to request and obtain inspections and approvals.

6. Prior to a license being issued, documentation shall be submitted to the Licensing Section of a fingerprint-based criminal record check as noted in §7309.A, §7309.C, §7309.D, and/or §7314.A-F as applicable for all staff including owners, operators, volunteers, and contractors of the child-placing agency, as required by R.S. 46:51.2 and 15:587.1. CBCs shall be dated prior to the issue date of the initial license, but no earlier than 45 days prior to the application being received by the Licensing Section.

7. Prior to a license being issued, documentation shall be submitted to the Licensing Section of completed State Central Registry clearances noting no justified (valid) finding of abuse and/or neglect for all staff including owners, operators, volunteers, and contractors and shall be dated no earlier than 45 days prior to the application being received by the Licensing Section.

8. Prior to a license being issued, documentation shall be submitted to the Licensing Section of completed out of State Central Registry clearances noting no justified (valid) finding of abuse and/or neglect for all staff including owners, operators, volunteers, and contractors that lived out of state within the previous five years. These clearances shall be dated prior to the issuance of the initial license, but no earlier than 120 days prior to the initial application being received by the Licensing Section. If the owner resided out of state since receiving the clearance, an updated SCR clearance is required.

B. Initial Licensing Inspection—Foster Care, Adoption, Transitional Placing

1. Prior to the initial license being issued to a child-placing agency, an initial licensing inspection shall be conducted on-site at the child-placing agency office and all transitional placing locations to ensure compliance with all licensing standards. The initial licensing inspection shall be an announced inspection. No child/youth shall be provided services by the child-placing agency until the initial licensing inspection has been performed, all deficiencies cleared, requested information received, and the department has issued an initial license. If the provider is in operation in violation of the law, the licensing inspection shall not be conducted. In these instances, the application shall be denied and DCFS shall pursue legal remedies.

2. Once the child-placing agency is compliant with all licensing laws and standards, required statutes, ordinances, rules, regulations, and fees, the department may issue a license to the provider. The license shall be valid until the expiration date shown on the license, unless the license is revoked or suspended. When a license is modified, a new license shall be issued. The license with the most current issue date supersedes all other licenses issued.

3. When issued, the initial child-placing agency license shall specify the services for which the child-placing agency is eligible to provide (foster care services, adoption services, and/or transitional placing services).

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1407(D).

HISTORICAL NOTE: Promulgated by the Department of Children and Family Services, Licensing Section, LR 45:356 (March 2019), effective April 1, 2019, LR 46:678 (May 2020), effective June 1, 2020.

§7309. Background Checks

A. Criminal Background Checks—Owners, Foster Care, and Adoption

1. Owners shall have a fingerprint based criminal background check from the Louisiana State Police on file with the child-placing agency in accordance with R.S. 46:51.2 and 15:587.1. If an individual has previously obtained a certified copy of their criminal background check from the Louisiana State Police, such certified copy shall be acceptable as meeting the CBC requirements. If an owner obtains a certified copy of their criminal background check from the Louisiana State Police, this criminal background check shall be accepted for a period of one year from the date of issuance of the certified copy. This certified copy shall be kept on file at the facility. Prior to the one-year expiration of the certified criminal background check, a new fingerprint-based satisfactory criminal background check shall be obtained from Louisiana State Police. If the clearance is not obtained prior to the one-year expiration of the certified criminal background check, the owner is no longer allowed on the premises until a clearance is received.

a. This check shall be obtained prior to the license being issued, the addition of a board member who meets the definition of an owner, an individual being present on the premises, or an individual having access to children/youth.

b. No person shall own, operate, or participate in the management or governance of a child-placing agency until such person has submitted his or her fingerprints to Louisiana State Police and it has been determined that such person has not been convicted of, or pled guilty or nolo contendere to any crime listed in R.S. 15:587.1(C).

c. No person who has been convicted of, or pled guilty or nolo contendere to any offense included in R.S. 15:587.1(C), shall own, operate, or participate in the management or governance of a child-placing agency.

d. Any owner or operator who is convicted of, or pled guilty or nolo contendere to any crime listed in R.S. 15:587.1(C) shall not continue in the management or governance after such conviction, guilty plea, or plea of nolo contendere.

e. Only certified CBCs obtained by the individual for themselves from LSP are transferable from one owner to another owner.

2. The following is a listing of individuals by organizational type who are required to submit documentation of a satisfactory fingerprint-based criminal background clearance from the Louisiana State Police:

a. *Individual Ownership*—individual and spouse listed on the licensing application submitted and who have access to the children/youth in care of the provider and/or children/youth who receive services from the provider and/or who are present at any time on the agency premises when children/youth are present;

b. *Partnership*—all limited or general partners and managers who are listed on the licensing application submitted and who have access to the children/youth in care of the provider and/or children/youth who receive services from the provider, and/or who are present at any time on the agency premises when children/youth are present;

c. *Church Owned, University Owned or Governmental Entity*—any clergy and/or board member who is listed on the licensing application submitted and who has access to the children/youth in care of the provider, and/or children/youth who receive services from the provider, and/or who is present at any time on the agency premises when children/youth are present; or

d. *Corporation* (includes limited liability companies)—individual(s) who is registered as an officer of the board with the Louisiana Secretary of State and/or listed on the licensing application submitted and who has access to the children/youth in care of the provider, and/or children/youth who receive services from the provider, and/or who is present at any time on the agency premises when children/youth are present.

3. When an individual is listed on the licensing application or the Secretary of State's website as an officer and does not have access to children/youth in care or who receive services from the provider and/or is not present at any time on the agency premises when children/youth are present, a DCFS approved attestation form signed and dated by the individual is acceptable in lieu of a satisfactory fingerprint based CBC from LSP. The attestation form shall be accepted for a period of one year from the date individual signed attestation form.

4. Effective June 1, 2020, CBCs/attestation forms shall be dated prior to the initial license being issued, but no earlier than 45 days prior to the initial application being received by the Licensing Section.

5. Owners with the subprogram of transitional placing (TP) in addition to foster care and/or adoption shall request fingerprint-based criminal background checks through the Federal Bureau of Investigation (FBI)as noted in §7309.C and/or §7309.D, as applicable. LSP checks are only acceptable for owners with the subprogram of foster care and/or adoption.

B. State Central Registry—Owners, Foster Care, Adoption, Transitional Placing

1. Prior to April 1, 2019, in accordance with R.S. 46:1414.1, all owners and operators affiliated with an agency were required to have on file a state central registry clearance form from child welfare stating that the owners/operators were not listed on the state central registry. No person recorded on any state's child abuse and neglect registry with a justified (valid) finding of abuse or neglect of a child shall be eligible to own, operate, or participate in the governance of a child-placing agency.

a. When an individual is listed on the licensing application or the Secretary of State's website as an officer and does not have access to children/youth in care or children/youth who receive services from the provider and/or is not present at any time on the agency premises when children/youth are present, a DCFS approved attestation form signed and dated by the individual is acceptable in lieu of a state central registry clearance. The attestation form shall be accepted for a period of one year from the date individual signed attestation form.

2. Prior to April 1, 2019, all owners and operators affiliated with an agency were required to have on file a clearance from any other state's child abuse and neglect registry in which the owner/operator resided within the proceeding five years. No person recorded on any state's child abuse and neglect registry with a justified (valid) finding of abuse and/or neglect of a child was eligible to own, operate, or participate in the governance of the child-placing agency.

3. In accordance with R.S. 46:1414.1, an inquiry of the State Central Registry for all owners and operators shall be conducted prior to a license being issued or if currently licensed, prior to the addition of a new board member who meets the definition of an owner. The Louisiana State Central Registry clearance form shall be dated no earlier than 45 days prior to the application being received by the Licensing Section or the addition of a new board member who meets the definition of an owner. For states other than Louisiana, clearance forms shall be dated no earlier than 120 days prior to the application being received by the Licensing

Section or the addition of a new board member who meets the definition of an owner; however, individuals who continue to reside outside of the state of Louisiana but own/operate a child placing agency in Louisiana, their clearances shall be dated prior to the issuance of the initial license, but no earlier than 45 days prior to the initial application being received by the Licensing Section. No person who is recorded on any state's child abuse and neglect registry with a valid justified (valid) finding of abuse or neglect of a child shall be eligible to own, operate, or participate in the governance of the child-placing agency.

a. When an individual is listed on the licensing application or the Secretary of State's website as an officer and does not have access to children/youth in care or children/youth who receive services from the provider and/or is not present at any time on the agency premises when children/youth are present, a DCFS approved attestation form signed and dated by the individual is acceptable in lieu of a state central registry clearance. The attestation form shall be accepted for a period of one year from the date individual signed the attestation form.

4. If an owner/operator resided in another state within the proceeding five years, provider shall request a check and obtain clearance information from that state's child abuse and neglect registry prior to the license being issued or if currently licensed, prior to the addition of a new board member who meets the definition of an owner. No person who is recorded on any state's child abuse and neglect registry with a justified (valid) finding of abuse and/or neglect of a child shall be eligible to own, operate, or participate in the governance of a child-placing agency.

a. If the provider requests an out-of-state state central registry check and that state advises that they are unable to process the request due to statutory limitations, documentation of such shall be kept on file.

5. Upon notification from child welfare that an owner/operator(s) is not listed on the state central registry, the provider shall maintain on file the child welfare notification that the owner's name does not appear on the registry with a justified (valid) finding of abuse and/or neglect.

6. A request for a state central registry clearance shall be submitted by provider for all owners/operators to child welfare every five years prior to the date noted on the state central registry clearance notification and at any time upon the request of DCFS if reasonable suspicion exists that an individual may be listed on the state central registry.

7. If the owner/operator receives a justified (valid) finding after receiving notification from child welfare that he was not listed on the state central registry and the owner/operator advises the provider prior to his/her appeal rights being exhausted, licensing shall be notified within 24 hours or no later than the next business day, whichever is shorter.

a. The owner/operator shall be directly supervised by a paid staff (employee) of the child-placing agency and at any and all times when he/she is in the presence of a child/youth. The employee responsible for supervising the individual must not be a suspected perpetrator with a justified (valid) determination of abuse and/or neglect.

b. Under no circumstances shall the owner/operator, with the justified (valid) finding of abuse and/or neglect, be left alone and unsupervised with a child/youth pending the official determination from child welfare that the individual is or is not listed on the state central registry.

8. Upon notification to the provider from child welfare that the owner/operator is listed on the State Central Registry, the owner/operator shall no longer be eligible to own, operate, or participate in the governance of the child-placing agency. The owner/operator may voluntarily withdraw the application for licensure or if he/she chooses not to withdraw the application, the application shall be immediately denied. If the individual with the justified (valid) finding of abuse and/or neglect is a member of the child-placing agency board, the provider shall submit a signed, dated statement to licensing within 24 hours or no later than the next business day indicating that the board member has resigned his position on the board or has been relieved of his position on the board with the effective date of the resignation/removal. Within seven calendar days of the notification, provider shall also submit to licensing documentation verifying that the individual's name has been removed from the Secretary of State's website if the CPA is owned/operated by a corporation. After receipt of the statement, the application for licensure may continue to be processed.

9. Any information received or knowledge acquired by a provider that a current owner is a perpetrator of abuse and/or neglect with a justified (valid) determination of abuse or neglect prior to receipt of official notification from child welfare, shall be immediately reported verbally to licensing management staff and followed up in writing no later than the close of business on the next business day. Prior to receipt of the official notification and immediately upon the knowledge that a justified (valid) finding has been issued by DCFS, the individual shall be directly supervised by a paid staff (employee) of the child-placing agency, at any and all times when he/she is present on the premises and/or is in the presence of a child/youth. The employee responsible for supervising the individual must not be a suspected perpetrator with a justified (valid) determination of abuse and/or neglect. Under no circumstances shall the individual with the valid (justified) finding of abuse and/or neglect be left alone and unsupervised with a child/youth pending the official determination from child welfare that the individual is or is not listed on the state central registry.

10. State central registry clearances are not transferable from one owner to another.

C. Criminal Background Checks—Current Owners—Transitional Placing as of June 1, 2020

1. Effective June 1, 2020, and in accordance with Public Law 115-123 and R.S. 15:587.1, provider shall submit a request for a fingerprint-based criminal background

check through the Federal Bureau of Investigation (FBI) for all owners/operators operating a transitional placing program. The request for the FBI check shall be submitted no later than June 12, 2020. Documentation of submission shall be available for review and submitted upon request of the Licensing Section.

2. Upon notification that the owner/operator has been convicted of a crime listed in R.S.15:587.1(C), the owner/operator shall no longer be eligible to own, operate, or participate in the governance or management of the child placing agency. The owner/operator can voluntarily close the business or if he/she chooses not to close the business, the license shall be immediately revoked. If the owner/operator is a member of the board or clergy, the provider shall submit a signed, dated statement to Licensing within 24 hours or no later than the next business day after the notification has been made indicating that the individual has resigned or been relieved of his position with the effective date of the resignation/removal. If the statement is not received within the aforementioned timeframe, the license shall be immediately revoked. Provider shall also submit documentation to Licensing within seven calendar days of the notification being made verifying that the individual's name has been removed from the Secretary of State's website if owned by a corporation.

3. Upon notification that additional information is required in order to make a decision, the provider has seven calendar days to submit the requested information to the requesting agency. Documentation of the date the requesting agency requested additional information shall be available for review. If the information is not submitted as requested within seven calendar days, the owner/operator shall not be present at the agency. However, if the information is not submitted within 30 calendar days, owner/operator can voluntarily close the business or if he/she chooses not to close the business, the license shall be immediately revoked. If the owner/operator is a member of the board or clergy, the provider shall submit a signed, dated statement to Licensing within 24 hours or no later than the next business day after the thirtieth day indicating that the individual has resigned or been relieved of his position with the effective date of the resignation/removal. If the statement is not received within the aforementioned timeframe, the license shall be immediately revoked. Provider shall also submit documentation to Licensing within seven calendar days after the thirtieth day verifying that the individual's name has been removed from the Secretary of State's website if owned by a corporation.

4. Criminal background clearances are not transferable between owners.

5. The FBI check shall be obtained prior to the addition of a board member who meets the definition of an owner.

6. No person shall own, operate, or participate in the management or governance of a child-placing agency until such person has submitted his or her fingerprints through the FBI and it has been determined that such person has not been convicted of, or pled guilty or *nolo contendere* to any crime listed in R.S. 15:587.1(C).

7. Any owner or operator who is convicted of, or pled guilty or *nolo contendere* to any crime listed in R.S. 15:587.1(C) shall not continue in the management or governance after such conviction, guilty plea, or plea of *nolo contendere*.

8. The following is a listing of individuals by organizational type who are required to submit documentation to Licensing of a satisfactory fingerprint-based criminal background clearance through the FBI:

a. *Individual Ownership*—individual and spouse listed on the licensing application submitted and who have access to the children/youth in care of the provider and/or children/youth who receive services from the provider and/or who are present at any time on the agency premises when children/youth are present;

b. *Partnership*—all limited or general partners and managers who are listed on the licensing application submitted and who have access to the children/youth in care of the provider and/or children/youth who receive services from the provider, and/or who are present at any time on the agency premises when children/youth are present;

c. *Church Owned, University Owned or Governmental Entity*—any clergy and/or board member who is listed on the licensing application submitted and who has access to the children/youth in care of the provider, and/or children/youth who receive services from the provider, and/or who is present at any time on the agency premises when children/youth are present; or

d. *Corporation* (includes limited liability companies)—individual(s) who is registered as an officer of the board with the Louisiana Secretary of State and/or listed on the licensing application submitted and who has access to the children/youth in care of the provider, and/or children/youth who receive services from the provider, and/or who is present at any time on the agency premises when children/youth are present.

9. When an individual is listed on the licensing application or the Secretary of State's website as an officer and does not have access to children/youth in care or who receive services from the provider and/or is not present at any time on the agency premises when children/youth are present, a DCFS approved attestation form signed and dated by the individual is acceptable in lieu of a satisfactory fingerprint-based CBC through the FBI. The attestation form shall be accepted for a period of one year from the date individual signed the attestation form.

D. Criminal Background Checks – Prospective Owners as of June 1, 2020-Transitional Placing

1. Effective June 1, 2020, and in accordance with Public Law 115-123 and R.S. 15:587.1, documentation of a satisfactory fingerprint-based criminal background check through the Federal Bureau of Investigation (FBI) for all owners/operators of transitional placing programs is required

prior to the date the initial license is issued. The satisfactory criminal record check shall be dated prior to the issuance of the initial license, but no earlier than 45 days prior to the initial application being received by the Licensing Section. Documentation of a satisfactory fingerprint-based FBI check shall be available for review.

a. This check shall be obtained prior to the license being issued, board member who meets the definition of an owner, an individual being present on the agency premises when children/youth are present, or an individual having access to children/youth.

b. No person shall own, operate, or participate in the management or governance of a child-placing agency until such person has submitted his or her fingerprints through the FBI and it has been determined that such person has not been convicted of, or pled guilty or *nolo contendere* to any crime listed in R.S. 15:587.1(C).

c. Any owner or operator who is convicted of, or pled guilty or *nolo contendere* to any crime listed in R.S. 15:587.1(C) shall not continue in the management or governance after such conviction, guilty plea, or plea of *nolo contendere*.

2. The following is a listing of individuals by organizational type who are required to submit documentation to Licensing of a satisfactory fingerprint-based criminal background clearance from the FBI:

a. *Individual Ownership*—individual and spouse listed on the licensing application submitted and who have access to the children/youth in care of the provider and/or children/youth who receive services from the provider and/or who are present at any time on the agency premises when children/youth are present;

b. *Partnership*—all limited or general partners and managers who are listed on the licensing application submitted and who have access to the children/youth in care of the provider and/or children/youth who receive services from the provider, and/or who are present at any time on the agency premises when children/youth are present;

c. *Church Owned, University Owned or Governmental Entity*—any clergy and/or board member who is listed on the licensing application submitted and who has access to the children/youth in care of the provider, and/or children/youth who receive services from the provider, and/or who is present at any time on the agency premises when children/youth are present; or

d. *Corporation* (includes limited liability companies)—individual(s) who is registered as an officer of the board with the Louisiana Secretary of State and/or listed on the licensing application submitted and who has access to the children/youth in care of the provider, and/or children/youth who receive services from the provider, and/or who is present at any time on the agency premises when children/youth are present.

3. When an individual is listed on the licensing application or the Secretary of State's website as an officer and does not have access to children/youth in care or who receive services from the provider and/or is not present at any time on the agency premises when children/youth are present, a DCFS approved attestation form signed and dated by the individual is acceptable in lieu of a satisfactory fingerprint-based CBC through the FBI. The attestation form shall be accepted for a period of one year from the date individual signed the attestation form.

4. Criminal background clearances are not transferable between owners.

E. Agency Location and Equipment—Foster Care, Adoption, Transitional Placing

1. The provider shall have suitable space for an office and reception area, which provide comfort, safety, privacy, and convenience for children/youth and staff.

2. The provider shall have furnishings, which are clean and safe.

3. The provider shall have suitable space for confidential meetings with parent(s) and children/youth and visitation between parent(s) and children/youth.

4. The provider shall have suitable storage areas for personnel and child/youth records which provide controlled access, retrieval, and confidentiality.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1407(D).

HISTORICAL NOTE: Promulgated by the Department of Children and Family Services, Licensing Section, LR 45:357 (March 2019), effective April 1, 2019, LR 46:679 (May 2020), effective June 1, 2020.

§7311. Licensing Requirements—Foster Care, Adoption, Transitional Placing

A. General Provisions

1. Any provider with a valid child-placing agency license upon the effective date of these standards shall meet all of the requirements herein, unless otherwise stated.

2. Prior to beginning operation, it is mandatory to obtain a license from DCFS by meeting all requirements noted herein.

3. Licensing Section shall determine the period for which a license is valid. A license is valid for the period for which it is issued unless it is modified, revoked, or suspended.

4. A license shall be valid only for a particular owner and only for the address on the license and is not transferable to another person, juridical entity, location, or subject to sale. Any change of ownership or change of location automatically renders the license null and void. A change of ownership of the property on which the licensed child-placing agency is located shall not affect the license; however, loss of the right to use the premises by the licensee (whether through eviction, termination of lease, etc.) shall void the license as provided above.

5. With the exception of a change of ownership application, an application from a new provider for the same program shall not be processed if an application or license is currently on file with the Licensing Section for the same physical address.

6. The license shall be displayed in a prominent place at the CPA. Child placing agencies operated by a church or religious organization are exempt from this requirement provided the license is available upon request.

7. DCFS representatives shall be admitted into the child-placing agency office without delay and shall be given immediate access during regular business hours to all records and areas of a child-placing agency office, including but not limited to its grounds. DCFS representative shall also be given immediate access to transitional placing locations and children/youth. Provider shall facilitate the coordination of visits to prospective and certified foster/adoptive parents' homes chosen by DCFS licensing staff.

8. In order to maintain a license, a CPA shall operate at least one day per week for at least four consecutive hours. This four hour timeframe shall occur Monday through Friday between the hours of 7:30 am and 5 pm.

9. If any area of a child-placing agency office is set aside for private use, DCFS representatives shall be permitted to verify that no child/youth is present in that portion and that the private areas are inaccessible to children/youth.

10. DCFS staff shall be allowed to confidentially interview any staff member, child/youth, and prospective and certified foster/adoptive parents as determined necessary by DCFS.

11. All new construction or renovation to a currently licensed child-placing agency requires approval from the Office of State Fire Marshal as noted in §7313.B, Office of Public Health, city fire (if applicable), and the Licensing Section prior to a child or children/youth occupying the new space.

12. The provider shall notify the Licensing Section in writing of a child placing office closure of more than 14 calendar days. Notification shall be submitted within five calendar days prior to the scheduled closure or within three calendar days of an unscheduled closure. Notification shall include child-placing agency's name, license number, dates, the reason for closure, and provider signature. Closures of more than 30 calendar days render the license null and void.

13. Prior to closure, the provider shall make adequate preparation and arrangements for the care, custody, and control of any children in the care, custody, and/or control of the provider.

14. The email address provided to the Licensing Section on the licensing application is the official email address unless the provider subsequently submits written notification of a change of email address to the Licensing Section and the request is acknowledged as received by licensing staff.

15. The provider shall make any information required by the Licensing Section as outlined in the current standards and any information reasonably related to determine compliance with these standards available to the department.

16. The provider shall show proof of compliance with all relevant standards and requirements established by federal, state, local, and municipal regulatory bodies.

17. The provider shall have documentation of current general liability coverage. Documentation shall consist of the current insurance policy or current binder which includes the name of the agency, address of the agency, the name of the insurance company, policy number, period of coverage, and explanation of the coverage.

18. The provider shall have documentation of current property insurance or current rental insurance coverage for each transitional placing location. Documentation shall consist of the current insurance policy or current binder which includes the name of the agency, address of location(s) covered, the name of the insurance company, policy number, period of coverage, and explanation of the coverage.

B. Fees and Notification of Changes—Foster Care, Adoption, Transitional Placing

1. All fees are non-refundable and shall be payable to DCFS Licensing Section by money order, certified check, or electronic payment, if available.

2. In accordance with R.S 46:1406(F), there shall be a non-refundable fee of $50 for a license or renewed license, payable to the department with the initial licensing application, CHOL application, CHOW application, and prior to the last day of the anniversary month of the license.

3. A non-refundable fee of $5 is required to issue a duplicate license with no changes.

4. A non-refundable fee of $25 is required when a change to the license is requested or noted by licensing staff.

5. The provider shall notify the Licensing Section on a DCFS change of information form prior to making changes to child-placing agency operations as noted below. There is no fee charged when the request is noted on the renewal application and all required inspections and approvals are received prior to the expiration of the current license; however, the change shall not be effective until the first day of the month following the expiration of the current license.

a. Removal of a service (foster care services, adoption services, or transitional placing services) is effective upon receipt of a completed change of information form.

b. Name change is effective when the following are received by the licensing section:

i. completed change of information form; and

ii. $25 non-refundable change fee.

c. Change to add foster care services or adoption services is effective when the following are received and approved by the licensing section:

i. completed change of information form;

ii. $25 non-refundable change fee; and

iii. inspection by the Licensing Section noting compliance with regulations regarding the service which will be provided.

d. Change to add transitional placing services is effective when the following are received and approved by the licensing section:

i. completed change of information form;

ii. $25 non-refundable change fee;

iii. current approvals as noted in §7313.B;

iv. inspection of each transitional placing location by the Licensing Section noting compliance with regulations regarding the service which will be provided;

v. copy of property insurance or rental insurance coverage for each transitional placing location;

vi. copy of a current FBI criminal background clearance or current attestation form as noted in §7309.C and/or 7309.D, as applicable for all owners as required by R.S. 46:51.2 and 15.587.1;

vii. copy of a criminal background clearance through the FBI as noted in §7314.C-F, as applicable for the program director, staff, volunteers, and contractors and required by R.S. 46:51.2 and 15.587.1; and

viii. copy of current State Central Registry clearances for new staff, volunteers, and contractors hired and/or providing services for the transitional placing program.

e. Change to add an additional transitional placing location under current CPA license is effective when the following are received and approved by the licensing section:

i. completed change of information form;

ii. $25 non-refundable change fee;

iii. current approvals as noted in §7313.B;

iv. inspection of each transitional placing location by the Licensing Section noting compliance with regulations regarding the service which will be provided; and

v. copy of property insurance or rental insurance coverage for each transitional placing location;

f. Change to age range for which services are provided is effective when the following are received and approved by the licensing section:

i. completed change of information form and;

ii. $25 non-refundable change fee;

g. Change in program director is effective when the following are received and approved by the licensing section:

i. completed change of information form;

ii. documentation of program director's qualifications as noted in §7313.H.6;

iii. three signed letters of reference dated within 12 months prior to hire attesting affirmatively to his/her character, qualifications, and suitability to manage the program;

iv. CBC clearance dated no earlier than 45 days prior to hire or if a currently hired staff person assuming the position of program director, then a copy of the satisfactory CBC which is on file for individual's previous position with the agency;

v. Louisiana State Central Registry clearance dated no earlier than 45 days prior to hire or if a currently hired staff person assuming the position of program director, then a copy of the SCR clearance which is on file for individual's previous position with the agency; and

vi. if an individual resided in a state other than Louisiana in the previous five years, State Central Registry clearance from those states dated no earlier than 120 days prior to hire; however, individuals who continue to reside outside of the state of Louisiana and work for a licensed provider in the state of Louisiana, their clearances shall be dated no earlier than 45 days prior to hire and/or having access to children/youth or if a currently hired staff person assuming the position of program director, then a copy of the SCR clearance which is on file for individual's previous position with the agency.

h. Change to add an individual to the existing ownership structure is effective when the following are received and approved by the Licensing Section:

i. completed change of information form;

ii. name of the individual(s) being added;

iii. effective date of addition;

iv. satisfactory SCR clearance form from Child Welfare dated no earlier than 45 days of the individual being added to the existing ownership structure, being present on the premises, and/or having access to children/youth; and

v. satisfactory fingerprint-based criminal background check completed as noted in §7309.A., §7309.C. and/or §7309.D., as applicable and required by R.S. 46:51.2 and 15.587.1 dated no earlier than 45 days of the individual being added to the existing ownership structure, being present on the premises, and/or having access to children/youth.

6. If a child-placing agency is found to be non-compliant with regard to a particular service offered or with a particular age group of children/youth, DCFS may require the child-placing agency to cease providing the service

and/or restrict the age of the children/youth for which the child-placing agency is licensed to provide services.

C. Renewal of License—Foster Care, Adoption, Transitional Placing

1. The license shall be renewed on an annual basis prior to the last day of the anniversary month of the license.

2. The provider shall submit, prior to the license expiration date, a completed renewal application form and $50 non-refundable fee. The following documentation shall also be included:

a. current Office of Fire Marshal approval for occupancy as noted in §7313,B;

b. current Office of Public Health, Sanitarian Services approval as noted in §7313.B;

c. current city fire department approval as noted in §7313.B;

d. copy of current general liability coverage;

e. copy of current property insurance or rental insurance coverage for each transitional placing locations;

f. copy of current insurance coverage for child-placing agency and staff vehicles used to transport children/youth;

g. copy of criminal background clearances or current attestation forms as noted in §7309.A, 7309.C, 7309.D, 7314.A, 7314.C, and/or 7314.D, as applicable for all owners and program directors and required by R.S. 46:51.2 and 15.587.1;

h. copy of state central registry clearances or current attestation forms referenced in §7309.B for all owners and program directors as required by R.S. 46:1414.1; and

i. copy of the completed reasonable and prudent parent authorized representative form if providing transitional placing services.

3. Prior to renewing the child-placing agency's license, an on-site inspection shall be conducted to ensure compliance with all licensing laws and standards. If the child-placing agency is found to be in compliance with the licensing laws and standards, and any other required statutes, laws, ordinances, and regulations, the license shall be renewed for a 12 month period.

4. If areas of noncompliance or deficiencies are cited and have not been corrected or new deficiencies or areas of non-compliance are cited prior to the expiration of the license, the department may issue an extension of the license not to exceed 60 days.

5. When it is determined by the department that such non-compliances or deficiencies have been corrected and no new areas of noncompliance or deficiencies have been cited, a license shall be issued through the last day of the anniversary month.

6. If it is determined that all areas of noncompliance or deficiencies have not been corrected or new areas of noncompliance or deficiencies have been cited prior to the expiration date of the extension, the department may revoke the license.

D. Change of Location (CHOL)—Foster Care, Adoption, Transitional Placing

1. When a provider changes the physical location of the child-placing agency office, it is considered a new operation and a new license is required prior to opening. The license at the existing location shall not transfer to the new child-placing agency location.

2. After the child-placing agency's new location has been determined, a complete CHOL licensing packet shall be submitted to the licensing section. A complete CHOL licensing packet shall include:

a. completed application and $50 non-refundable fee;

b. current Office of Fire Marshal approval for occupancy as noted in §7313.B;

c. current Office of Public Health, Sanitarian Services approval as noted in §7313.B;

d. current city fire department approval as noted in §7313.B;

e. city or parish building permit office approval for new construction or renovation

f. local zoning approval, if applicable;

g. organizational chart or equivalent list of staff positions and supervisory chain of command;

h. verification of experience and educational requirements for the program director if current director is replaced;

i. list of consultant/contract staff to include name, contact info, and responsibilities;

j. list of all staff (paid, non-paid, and volunteers) and their position;

k. copy of the completed reasonable and prudent parent authorized representative form if providing transitional placing services;

l. three signed reference letters dated within 12 months prior to hire for program director if a new director is hired attesting affirmatively to his/her character, qualifications, and suitability to manage the program;

m. copy of current general liability insurance coverage;

n. copy of current property insurance coverage or rental insurance coverage for each transitional placing location;

o. copy of current insurance coverage for child-placing agency and staff vehicles used to transport children/youth;

p. list of youth currently being served in transitional placing;

q. documentation of new fingerprint-based satisfactory criminal record checks for owners of the agency, as noted in section §7309.A., §7309.C., and/or §7309.D., as applicable and required by R.S. 46:51.2 and 15:587.1, dated prior to the date the license is issued, but no earlier than 45 days prior to the CHOL application being received by the Licensing Section;

r. documentation of new Louisiana State Central Registry clearance forms for owners dated no earlier than 45 days prior to the CHOL application being received by the Licensing Section as noted in §7309.B;

s. documentation of out of State Central Registry clearance forms for owners dated no earlier than 120 days prior to the CHOL application being received by the Licensing Section as noted in §7309.B ; however, individuals who continue to reside outside of the state of Louisiana but own/operate a child placing agency in the state of Louisiana, their clearances shall be dated prior to the issuance of the initial CHOL license, but no earlier than 45 days prior to the initial application being received by the Licensing Section.

t. documentation of new national criminal background checks through the Federal Bureau of Investigation (FBI) for currently certified foster/adoptive parents and any member of the parent's household aged 18 years and older, excluding youth in DCFS custody, in accordance with R.S. 46:51.2 for any crime enumerated under R.S. 15:587.1(C) and Public Law 105-89. These checks shall be dated no earlier than 45 days prior to the CHOL application being received by the Licensing Section as noted in §7315.B;

u. documentation of new State Central Registry clearance forms for currently certified foster/adoptive parents and any member of the parent's household aged 18 years and older, excluding youth in DCFS custody. Louisiana checks shall be dated no earlier than 45 days prior to the CHOL application being received by the Licensing Section as noted in §7315.C;

v. documentation of out of State Central Registry clearance forms for foster/adoptive parents and household members age 18 years and older, excluding youth in DCFS custody, dated no earlier than 120 days prior to the CHOL application being received by the Licensing Section as noted in §7315.C; however, for household members over the age of 18 years who continue to reside outside of the state of Louisiana, but their official domicile is a certified foster/adoptive home in the state of Louisiana, their clearances shall be dated prior to the issuance of the initial license, but no earlier than 45 days prior to the initial CHOL application being received by the Licensing Section;

w. documentation of new fingerprint-based satisfactory criminal record checks for all staff (paid, non-paid, and volunteers) and contractors of the agency, as noted in §7314.A.-F. as applicable and required by R.S. 46:51.2 and 15:587.1. CHOLs occurring April 1, 2019 or after, CBCs shall be dated no earlier than 45 days prior to the CHOL application being received by the Licensing Section as noted in §7313.I.9. and/or §7313.M.1., as applicable;

x. documentation of new Louisiana State Central Registry clearance forms for all staff (paid, non-paid, and volunteers) and contractors dated no earlier than 45 days prior to the CHOL application being received by the Licensing Section;

y. documentation of out of State Central Registry clearance forms for staff (paid, non-paid, and volunteers) and contractors dated no earlier than 120 days prior to the application being received by the Licensing Section as noted in §7313.I.9. and/or §7313.M.1., as applicable; however, individuals who continue to reside outside of the state of Louisiana, but volunteer with, provide services for, and/or work for a licensed provider in the state of Louisiana, their clearances shall be dated no earlier than 45 days prior to hire and/or having access to children/youth.

z. any other documentation or information required by the department for licensure.

3. Services shall not be provided at the new location until a license is issued for that location.

4. The license for the new location may be effective upon receipt of all items listed in §7311.D.2 with the approval of DCFS, however; it shall not be effective prior to the first day operations begin at the new location.

5. The license for the old location shall be null and void on the last day services were provided at that location, but no later than the effective date of the new location's license. The child-placing agency shall submit documentation noting the last day services will be provided at the old location.

E. Change of Ownership (CHOW)—Foster Care, Adoption, Transitional Placing

1. Any of the following constitutes a change of ownership for licensing purposes:

a. change in the federal tax id number;

b. change in the state tax id number;

c. change in profit status;

d. any transfer of the business from an individual or juridical entity to any other individual or juridical entity;

e. termination of services by one owner and beginning of services by a different owner without a break in services to the children/youth; and/or

f. addition of an individual, with the exception of a board member, to the existing ownership on file with the licensing section.

2. When a child-placing agency changes ownership, the current license is not transferable. Prior to the ownership change and in order for a new license to be issued, the new

owner shall submit a CHOW application packet containing the following:

a. completed application and $50 non-refundable fee;

b. current Office of Fire Marshal approval for occupancy from current owner as noted in §7313.B;

c. current Office of Public Health, Sanitarian Services approval from current owner as noted in §7313.B;

d. current city fire department approval, if applicable; as noted in §7313.B;

e. city or parish building permit office approval for renovations or new construction;

f. local zoning approval, if applicable;

g. organizational chart or equivalent list of staff titles and supervisory chain of command;

h. verification of experience and educational requirements for the program director if new owner replaces current director;

i. list of consultant/contract staff to include name, contact info, and responsibilities;

j. list of all staff (paid, non-paid, and volunteers) and their position;

k. copy of the completed reasonable and prudent parent authorized representative form if providing transitional placing services;

l. three signed reference letters dated within three months prior to hire for program director if new owner replaces current director attesting affirmatively to his/her character, qualifications, and suitability to manage the program;

m. copy of current general liability coverage;

n. copy of current property insurance or rental insurance coverage for each transitional placing locations;

o. copy of current insurance for child-placing agency and staff owned vehicles used to transport children/youth;

p. documentation of new fingerprint-based satisfactory criminal record checks for owners or current attestation forms as noted in §7309.A., 7309.C., and/or 7309.D., as applicable and as required by R.S. 46:51.2 and 15:587.1. These checks shall be dated no earlier than 45 days prior to the CHOW application being received by the Licensing Section;

q. documentation of new Louisiana State Central Registry clearance forms for owners or attestation forms dated no earlier than 45 days prior to the CHOW application being received by the Licensing Section as noted in §7309.B;

r. documentation of out of State Central Registry clearance forms for owners dated no earlier than 120 days prior to the CHOW application being received by the licensing section as noted in §7309.B ;however, individuals who continue to reside outside of the state of Louisiana but own/operate a child placing agency in the state of Louisiana, their clearances shall be dated prior to the issuance of the initial license, but no earlier than 45 days prior to the initial CHOW application being received by the Licensing Section.

s. documentation of new fingerprint-based satisfactory criminal record checks for all staff (paid, non-paid, and volunteers) and contractors of the agency, as noted in §7314.A. - F., as applicable and required by R.S. 46:51.2 and 15:587.1, dated no earlier than 45 days prior to the CHOW application being received by the Licensing Section;

t. documentation of new Louisiana State Central Registry clearance forms for all staff (paid, non-paid, and volunteers) and contractors dated no earlier than 45 days prior to the CHOW application being received by the Licensing Section;

u. documentation of out of State Central Registry clearance forms for staff (paid, non-paid, and volunteers) and contractors dated no earlier than 120 days prior to the CHOW application being received by the Licensing Section as noted in §7313.I.10. and/or §7313.M.2., as applicable, ; however, individuals who continue to reside outside of the state of Louisiana but volunteer with, provide services for, and/or work for a licensed provider in the state of Louisiana, their clearances shall be dated no earlier than 45 days prior to hire and/or having access to children/youth.

v. documentation of new national criminal background checks through the Federal Bureau of Investigation (FBI) for currently certified foster/adoptive parents and any member of the parent's household aged 18 years and older, excluding youth in DCFS custody, in accordance with R.S. 46:51.2 for any crime enumerated under R.S. 15:587.1 and Public Law 105-89. These checks shall be dated no earlier than 45 days prior to the CHOW application being received by the Licensing Section;

w. documentation of new Louisiana State Central Registry clearance forms for currently certified foster/adoptive parents and any member of the parent's household aged 18 years and older, excluding youth in DCFS custody. These checks shall be dated no earlier than 45 days prior to the CHOW application being received by the Licensing Section;

x. documentation of out of State Central Registry clearance forms for foster/adoptive parents and household members age 18 years and older, excluding youth in DCFS custody, dated no earlier than 120 days prior to the application being received by the Licensing Section as noted in §7315.C ; however; for household members over the age of 18 years who continue to reside outside of the state of Louisiana, but their official domicile is a certified foster/adoptive home in the state of Louisiana, their clearances shall be dated prior to the issuance of the initial license, but no earlier than 45 days prior to the initial CHOW application being received by the Licensing Section.

y. any other documentation or information required by the department for licensure.

3. The prior owner's current Office of State Fire Marshal and Office of Public Health approvals are only transferrable for 60 calendar days. The new owner shall obtain approvals dated after the effective date of the new license from these agencies within 60 calendar days. The new owner will be responsible for forwarding the approval or extension from the Office of the State Fire Marshal and the Office of Public Health as noted in §7313.B to the Licensing Section on or prior to the sixtieth day in order for their license to be extended.

4. A licensing inspection shall be conducted within 60 calendar days of the license being issued to verify compliance with the licensing standards.

5. All staff/children/youth information shall be updated under the new ownership prior to or on the last day services are provided by the existing owner.

6. If all information in §7311.E.2 of this section is not received prior to or on the last day services are provided by the existing owner, the new owner shall not operate until a license is issued. The new owner is not authorized to provide services until the licensure process is completed in accordance with §7311.E.2.

7. In the event of a change of ownership, the children/youth records shall remain with the new child-placing agency.

8. A child-placing agency facing adverse action shall not be eligible for a CHOW. An application involving a child-placing agency facing adverse action shall be treated as an initial application rather than a change of ownership application.

F. Change in Ownership Structure—Foster Care, Adoption, Transitional Placing

1. Although the following does not constitute a change of ownership for licensing purposes, a change of information form is required. The change of information form shall be submitted to the Licensing Section within 14 calendar days of the change:

a. if individual ownership, upon death of the spouse; or

b. if individual ownership, upon death of the spouse and execution of the estate, if the surviving spouse remains as the only owner.

2. The change of information form shall be submitted to the Licensing Section within seven calendar days of the change:

a. if individual ownership, undergoing a separation or divorce, until the judicial termination of the community aquets and gains is signed by both parties;

b. change in board members for churches, corporations, limited liability companies, universities, or governmental entities; or

c. removal of any person from the existing ownership structure under which the child-placing agency is currently licensed.

G. Denial, Revocation, or Non-Renewal of License—Foster Care, Adoption, Transitional Placing

1. Even if a child-placing agency is otherwise in compliance with these standards, an application for a license may be denied, or a license revoked or not renewed for any of the following reasons:

a. cruelty or indifference to the welfare of the children/youth in care;

b. violation of any provision of the standards, rules, regulations, or orders of the department;

c. disapproval from any agency whose approval is required for licensing;

d. any validated instance of abuse, neglect, corporal punishment, physical punishment, or cruel, severe or unusual punishment as noted on the state central registry, if the owner is responsible or if the staff member who is responsible remains in the employment of the licensee;

e. any validated instance of abuse, neglect, corporal punishment, physical punishment, or cruel, severe or unusual punishment as noted on the state central registry, in a foster/adoptive home if the home remains certified;

f. closing with no plans for reopening and no means of verifying compliance with minimum standards for licensure;

g. any act of fraud such as falsifying or altering documents required for licensure;

h. refusing to allow the Licensing Section staff to perform mandated duties, i.e., denying entrance to the agency, not cooperating with licensing mandates, intimidation or threats to DCFS staff, etc.;

i. the owner, director, officer, board member, or any person designated to manage or supervise the provider or any staff providing care, supervision, or treatment to a child/youth has been convicted of or pled guilty or nolo contendere to any offense listed in R.S. 15:587.1 or to any offense involving a juvenile victim. A copy of a criminal record check performed by the Louisiana State Police (LSP) or other law enforcement provider, or by the Federal Bureau of Investigation (FBI), or a copy of court records in which a conviction or plea occurred, indicating the existence of such a plea or conviction shall create a rebuttal presumption that such a conviction or plea exists;

j. the provider, after being notified that an officer, director, board member, manager, supervisor, or any employee has been convicted of or pled nolo contendere to any offense referenced above, allows such officer, director, or employee to remain employed, or to fill an office of profit or trust with the provider. A copy of a criminal record check performed by the LSP or other law enforcement provider, or by the FBI, or a copy of court records in which a conviction or plea occurred, indicating the existence of such a plea or

conviction shall create a rebuttal presumption that such a conviction or plea exists;

k. failure of the owner, director, or any employee to report a known or suspected incident of abuse or neglect to child protection authorities;

l. revocation or non-renewal of a previous license issued by a state or federal provider;

m. a history of non-compliance with licensing statutes or standards, including but not limited to failure to take prompt action to correct deficiencies, repeated citations for the same deficiencies, closure to avoid revocation, or revocation or denial of any previous license issued by the department;

n. failure to submit an application for renewal or required documentation or to pay required fees prior to the last day of the anniversary month;

o. operating any unlicensed agency, program, or facility;

p. permitting an individual to be on the premises or to have access to children/youth when listed on the state central registry;

q. own a child-placing agency and have been convicted of or have pled guilty or nolo contender to any crime in which an act of fraud or intent to defraud is an element of the offense; or

r. failure of the child-placing agency to decertify a foster/adoptive home after licensing violations are noted and not timely corrected which pose an imminent risk to the health and/or safety of children/youth placed in the home.

H. Posting of Notices of Revocation—Foster Care, Adoption, Transitional Placing

1. The DCFS shall prominently post a notice of revocation action at each public entrance of the child-placing agency within one business day of such action. This notice shall remain visible to the general public, other placing agencies, parents, guardians, and other interested parties of individuals that receive services from the provider.

2. It shall be a violation of these rules for a provider to permit the obliteration or removal of a notice of revocation that has been posted by the department. The provider shall ensure that the notice continues to be visible to the general public, other placing agencies, parents, guardians, and other interested parties throughout the pendency of any appeal of the revocation.

3. The provider shall notify the department's licensing management staff verbally and in writing immediately if the notice is removed or obliterated.

4. Failure to maintain the posted notice of revocation required under these rules shall be grounds for denial, revocation, or non-renewal of any future application or license.

I. Appeal Process for Denial, Non-Renewal, or Revocation—Foster Care, Adoption, Transitional Placing

1. The DCFS Licensing Section, shall advise the applicant, program director or owner by letter of the reasons for revocation of the license, or denial of an application, and the right of appeal. If the director or owner is not present at the agency, delivery of the written reasons for such action may be made to any staff of the agency. Notice to a staff person shall constitute notice to the child-placing agency of such action and the reasons thereof. A request for appeal shall include a copy of the letter from the Licensing Section that notes the reasons for revocation, denial, or non-renewal, together with the specific areas of the decision the appellant believes to be erroneous and/or the specific reasons the decision is believed to have been reached in error, and shall be mailed to: Department of Children and Family Services, Appeals Section, P.O. Box 2944, Baton Rouge, LA 70821-9118.

2. A provider shall have 15 calendar days from receipt of the letter notifying of the revocation to request an appeal in accordance with R.S. 46:1420. Provider may continue to operate during the appeal process as provided in the Administrative Procedure Act.

3. If the provider's license will expire during the appeal process, the provider shall submit prior to its license expiration date, a complete renewal packet as noted in §7311.C. Each provider is solely responsible for obtaining the application form. All information shall be received on or postmarked by the last day of the month in which the license expires or the provider shall cease operation by the close of business on the expiration date noted on the license. A complete renewal packet includes:

a. completed application form;

b. non-refundable $50 fee;

c. current Office of State Fire Marshal approval for occupancy as noted in §7313.B;

d. current Office of Public Health, Sanitarian Services approval as noted in §7313.B;

e. current city fire department approval, if applicable; as noted in §7313.B;

f. copy of current general liability coverage;

g. copy of current property insurance or rental insurance coverage for each transitional placing locations;

h. copy of current insurance coverage for child-placing agency and staff owned vehicles used to transport children/youth;

i. copy of criminal background clearances or current attestation forms as referenced in §7309.A., §7309.C., §7309.D., §7314.A., §7314,C., and/or §7314.D., as applicable for all owners and program directors as required by R.S. 46:51.2 and 15.587.1;

j. copy of state central registry clearance forms as referenced in §7309.B and §7313.I.10 for all owners and program directors as required by R.S. 46:1414.1; and

k. copy of the completed reasonable and prudent parent authorized representative form if providing transitional placing services.

4. A provider shall have 30 calendar days from receipt of the letter notifying of the denial of an application for a license to request an appeal.

5. The appeals section shall notify the Division of Administrative Law of receipt of an appeal request. Division of Administrative Law shall conduct a hearing. The appellant will be notified by DAL of the decision, either affirming or reversing the original decision of DCFS.

6. If the decision of DCFS is affirmed or the appeal dismissed, the provider shall terminate operation of the child-placing agency immediately. If the provider continues to operate without a license, the DCFS may file suit in the district court in the parish in which the child-placing agency is located for injunctive relief.

7. If the revocation or non-renewal decision of DCFS is reversed, the license will be re-instated and the appellant may continue to operate. If the denial of application decision is reversed, DCFS will begin processing the application for licensure.

J. Disqualification of Agency and Provider—Foster Care, Adoption, Transitional Placing

1. If a child-placing agency's application is denied, license revoked or not renewed due to failure to comply with state statutes and/or licensing rules, the department shall not process a subsequent application from the provider for that child-placing agency or any other license issued by DCFS for a minimum period of 24 months after the effective date of denial or revocation or non-renewal or a minimum period of 24 months after all appeal rights have been exhausted, whichever is later (the disqualification period). Any pending application by the same provider shall be treated as an application for a new agency for purposes of this section and shall be denied and subject to the disqualification period. Any subsequent application for a license shall be reviewed by the Secretary or her designee prior to a decision being made to grant a license. The department reserves the right to determine, at its sole discretion, whether to issue any subsequent license.

2. Any voluntary surrender of a license by a child-placing agency facing the possibility of adverse action against its license (revocation or non-renewal) shall be deemed to be a revocation for purposes of this rule and shall trigger the same disqualification period as if the license had actually been revoked

3. In the event a license is revoked or renewal is denied, (other than for cessation of business or non-operational status), or voluntarily surrendered to avoid adverse action any owner, officer, member, manager, program director, or executive director of such licensee shall be prohibited from owning, managing, directing, or operating another licensed agency for a period of not less than two years from the date of the final disposition of the revocation or denial action. If the action was not appealed, the effective date is the last day for which an appeal could have been requested. The lapse of two years shall not automatically restore a person disqualified under this provision. The department, at its sole discretion, may determine that a longer period of disqualification is warranted under the facts of a particular case.

4. If a license is revoked or not renewed or application denied or refused, an application or license shall also be denied or refused to any affiliate of the licensee or applicant. The disqualification period provided in this section shall include any affiliate of the provider.

K. Complaint Process—Foster Care, Adoption, Transitional Placing

1. In accordance with R.S. 46:1418, the department shall investigate all complaints (except complaints concerning the prevention or spread of communicable diseases), including complaints alleging abuse or neglect. All licensing complaint investigations shall be initiated within 30 days.

2. All licensing complaint investigations shall be unannounced.

3. Providers shall advise staff, foster/adoptive parents, and youth in the transitional placing program of the licensing authority of DCFS and that they may contact the Licensing Section with any unresolved complaints. Providers shall post the current telephone number, email address, and mailing address of the Licensing Section in the child-placing agency office in an area regularly utilized by staff. Documentation of notification of the licensing authority of DCFS to foster/adoptive parents and youth in the transitional placing program shall consist of a signed and dated statement by the foster/adoptive parents and the youth.

L. Corrective Action Plans—Foster Care, Adoption, Transitional Placing

1. A corrective action plan (CAP) shall be submitted for all deficiencies noted by Licensing Section staff regarding any licensing law or standard, or any other required statute, ordinance, or standard. The request for submission of the CAP does not restrict the actions which may be taken by DCFS. If the department does not specify an earlier timeframe for submitting the CAP, the CAP shall be submitted within 10 calendar days from receipt of the deficiencies. Receipt of the deficiencies by any staff person constitutes notice to the child-placing agency. The CAP shall include a description of how the deficiency will be corrected, the date by which correction(s) will be completed, and outline the steps the child-placing agency plans to take in order to prevent further deficiencies from being cited in these areas, and the plan to maintain compliance with the licensing standards. If the CAP is not sufficient and/or additional information is required, the provider shall be notified and informed to submit additional information within five calendar days. If it is determined that all areas of noncompliance or deficiencies have not been corrected, the department may revoke the license.

2. Provider may challenge a specific deficiency or any information within a cited deficiency which the provider contends is factually inaccurate. The provider shall have one opportunity to request a review of a licensing deficiency within the timeframe specified for the submission of the CAP. A statement of why the deficiency is being disputed and supporting documents (if applicable) shall be submitted with the corrective action plan within the timeframe specified for the submission of the CAP.

3. The statement of deficiencies for which a review has been requested will not be placed on the internet for viewing by the public until a decision has been reached. As a result of the licensing deficiency review request, a deficiency may be upheld with no changes, the deficiency may be removed, or the deficiency may be upheld and revised to include pertinent information that was inadvertently omitted. Once a decision has been reached, provider will be informed in writing of the decision and the reason for the decision. If information within the deficiency was cited in error or the cited deficiency is revised by the DCFS Licensing Section staff, provider will receive a revised "statement of deficiencies" with the decision letter. If any enforcement action was imposed solely because of a deficiency or finding that has been deleted through the licensing deficiency review process, the action will be rescinded.

M. Critical Violations/Fines—Foster Care, Adoption, Transitional Placing

1. In accordance with R.S. 46:1430, when a provider is cited for violations in the following areas, the department may at its' discretion elect to impose sanctions, revoke a license, or both:

a. §7309.A, §7309.C.1-9, §7309.D.1-4, §7311.B.5.d.vi-vii., §7311.B.5.g.iv., §7311.B.5.h.v., §7311.C.2.g, §7313.I.9, §7313.L.5, §7313.M.1, §7314.A-G, and/or 7315.B - criminal background check;

b. §7313.N.2, N.6, and/or N.7—critical incidents; and/or

c. §7319.D, §7321.H, and/or §7323.F.2-5—supervision.

2. The option of imposing other sanctions shall not limit the right of DCFS to revoke and/or not renew a provider's license to operate if it determines that the violation poses an imminent threat to the health, safety, rights, or welfare of a child/youth. Only when the department finds that the violation does not pose an imminent threat to the health, safety, rights, or welfare of a child/youth will the department consider sanctions in lieu of revocation or non-renewal; however, the absence of such an imminent threat does not preclude the possibility of revocation or non-renewal in addition to sanctions, including fines.

3. In determining whether multiple violations of one of the above categories have occurred, both for purposes of this section and for purposes of establishing a history of non-compliance, all such violations cited during any 24-month period shall be counted.

4. For the first violation of one of the aforementioned categories, if the department does not revoke or not renew the license, the department may issue a formal warning letter noting the department's intent to take administrative action if further violations of the same category occur.

5. The warning letter shall include a directed corrective action plan (CAP) which shall outline the necessary action and timeframe for such action that a provider shall take in order to maintain compliance with the licensing standards. The provider shall acknowledge receipt of the warning letter by submitting a written response to the CAP within 10 calendar days of receipt of the letter. Failure by the provider to submit requested information and/or failure to implement the CAP as evidenced by a repeated violation of the same category of the standards may result in either the assessment of a civil fine, revocation/non-renewal of license, or both.

6. For the second violation of one of the same aforementioned categories within a 24-month period, provider may be assessed a civil fine of up to $250 per day for a violation in each of the aforementioned categories (if same category cited twice) and fined for each day the provider was determined to be out of compliance with one of the aforementioned categories according to the schedule of fines noted in §7311.M.7-9.

7. The base fine level for all violations shall be $200 per day. From the base fine level, factor in any applicable upward or downward adjustments, even if the adjustment causes the total to exceed $250. If the total fine after all adjustments exceeds $250, reduce the fine for the violation to $250 as prescribed by law.

a. When the violation resulted in death or serious physical or emotional harm to a child/youth or placed a child/youth at risk of death or serious physical or emotional harm, the fine shall be increased by $50.

b. When the provider had a previous license revoked for the same critical violation cited, the fine shall be increased by $25.

c. When the critical violation was cited and occurred despite the objective good faith best efforts of licensee to comply, the fine shall be decreased by $25.

d. When the cited critical violation was for a criminal background check not being completed prior to hire as required, but obtained before the individual was on the premises and/or had access to a child/youth, the fine shall be decreased by $25.

e. When the cited critical violation was for criminal background check not being completed prior to the individual being on the premises and/or having access to a child/youth, the fine shall be increased by $25.

f. When the provider self reports the critical incident which resulted in the death or serious physical or emotional harm to the child/youth; however it is reported

outside of the timeframe as specified by licensing regulations, the fine shall be decreased by $25.

g. When the provider fails to report the critical incident which resulted in the death or serious physical or emotional harm to the child/youth, the fine shall be increased by $25.

h. When a critical violation for supervision was cited due to staff not providing supervision as required to youth in transitional placing program, the fine shall be increased by $25.

i. When a critical violation for supervision was cited due to staff not conducting required visits to the foster/adoptive parent or child, the fine shall be increased by $25.

8. For the third violation of one of the same aforementioned categories within a 24 month period, the provider's license may be revoked.

9. The aggregate fines assessed for violations determined in any consecutive 12 month period shall not exceed $2,000 as prescribed by law. If a critical violation in a different category is cited by DCFS that warrants a fine and the provider has already reached the maximum allowable fine amount that could be assessed by the department in any consecutive 12 month period and the department does not revoke or not renew the license, the department may issue a formal warning letter noting the department's intent to take administrative action if further violations of the same category re-occur. The warning letter shall include a directed CAP which shall outline the necessary action and timeframe for such action that a provider shall take in order to maintain compliance with the licensing standards. The Provider shall acknowledge receipt of the warning letter by submitting a written response to the CAP within 10 calendar days of receipt of the letter. Failure by the provider to submit requested information and/or failure to implement the CAP as evidenced by a repeated violation of the same category of the standards may result in revocation/non-renewal of license.

N. Departmental Reconsideration and Appeal Procedure for Fines—Foster Care, Adoption, Transitional Placing

1. When a fine is imposed under these standards, the department shall notify the program director or owner by letter that a fine has been assessed due to deficiencies cited at the child-placing agency and the right of departmental reconsideration. The notification may be sent by certified mail or hand delivered to the child-placing agency. If the program director or owner is not present at the child-placing agency, delivery of the written reason(s) for such action may be made to any staff of the child-placing agency. Notice to a staff person shall constitute notice to the child-placing agency of such action and the reasons therefore. The letter shall specify the dates and the violation cited for which the fine(s) shall be imposed. Fines are due within 30 calendar days from the date of receipt of the letter unless the provider request a reconsideration of the fine assessment. The provider may request reconsideration of the assessment by asking DCFS for such reconsideration in writing within 10 calendar days from the date of receipt of the letter. A request for reconsideration shall include a copy of the letter from the Licensing Section that notes the reasons for assessment of the fine together with the specific reasons the provider believes assessment of the fine to be unwarranted and shall be mailed to Department of Children and Family Services, Licensing Section, P.O. Box 260036, Baton Rouge, LA 70826. If the provider withdraws the request for reconsideration, the fine is payable within seven calendar days of the withdrawal or on the original date that the fine was due, whichever is later.

2. The department shall advise the program director or owner by letter of the decision of DCFS after reconsideration and the right to appeal. The notification may be sent by certified mail or hand delivered to the child-placing agency. If the program director or owner is not present at the child-placing agency, delivery of the written decision may be made to any staff of the child-placing agency. Notice to a staff person shall constitute notice to the child-placing agency of such action.

a. If DCFS finds that the licensing section's assessment of the fine is justified, the provider shall have 15 calendar days from the receipt of the reconsideration letter to appeal the decision to the Division of Administrative Law (DAL). A request for appeal shall include a copy of the letter from the Licensing Section that notes the reasons for assessment of the fine and a copy of the reconsideration decision letter together with the specific areas of the decision the appellant believes to be erroneous and/or the specific reasons the decision is believed to have been reached in error, and shall be mailed to Department of Children and Family Services, Appeals Section, P.O. Box 2944, Baton Rouge, LA 70821-9118.

b. The DCFS appeals section shall notify the DAL of receipt of an appeal request. DAL shall conduct a hearing in accordance with the Administrative Procedure Act and shall render a decision. The appellant will be notified by DAL of the decision, either affirming or reversing the DCFS's decision.

c. If the provider has filed a timely appeal and the DCFS's assessment of fines is affirmed by an administrative law judge of the DAL, the fine shall be due within 30 calendar days after mailing notice of the final ruling from DAL or, if a rehearing is requested, within 30 calendar days after the rehearing decision is rendered. The provider shall have the right to seek judicial review of any final ruling of the administrative law judge as provided in the Administrative Procedure Act. If the appeal is dismissed or withdrawn, the fines shall be due and payable within seven calendar days of the dismissal or withdrawal. If a judicial review is denied or dismissed, either in district court or by a court of appeal, the fines shall be due and payable within seven calendar days after the provider's suspensive appeal rights have been exhausted.

3. If the provider does not appeal within 15 calendar days of receipt of the DCFS's reconsideration decision, the

fine is due within 30 calendar days of receipt of the DCFS's reconsideration decision and shall be mailed to Department of Children and Family Services, Licensing Section, P.O. Box 260036, Baton Rouge, LA 70826. If the provider files a timely appeal, the fines shall be due and payable on the date set forth in §7311.N.2.c. If the provider withdraws the appeal, the fine is payable within seven calendar days of the withdrawal or on the original date that the fine was due, whichever is later.

4. If the provider does not pay the fine within the specified timeframe, the license shall be immediately revoked and the DCFS shall pursue civil court action to collect the fines, together with all costs of bringing such action, including travel expenses and reasonable attorney fees. Interest shall begin to accrue at the current judicial rate on the day following the date on which the fines become due and payable.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:477 and R.S. 46:1401 et seq.

HISTORICAL NOTE: Promulgated by the Department of Children and Family Services, Licensing Section, LR 45:359 (March 2019), effective April 1, 2019, LR 46:681 (May 2020), effective June 1, 2020, amended LR 47:350 (March 2021), effective April 1, 2021, repromulgated LR 47:441 (April 2021).

§7313. Administration and Operation

A. Department Access—Foster Care, Adoption, Transitional Placing

1. Once a child-placing agency provider has been issued a license, the department shall conduct licensing and other inspections at intervals deemed necessary by the department to determine compliance with licensing standards, as well as, other required statutes, laws, ordinances, rules, regulations, and fees. These inspections shall be unannounced.

2. The department shall remove any child/youth or all children/youth from any provider or certified home when it is determined that one or more deficiencies exist that place the health and well-being of children/youth in imminent danger. The children/youth shall not be returned to the provider until such time as it is determined by the department that the imminent danger has been removed.

B. Other Jurisdictional Approvals—Foster Care, Adoption, Transitional Placing

1. The provider shall comply and show proof of compliance with all relevant standards, regulations, and requirements established by federal, state, local, and municipal regulatory bodies including initial and annual approval by the following:

a. Office of Public Health, Sanitarian Services:

i. all child-placing agency offices shall have documentation of approval;

ii. each transitional placing location shall have documentation of approval;

b. Office of State Fire Marshal:

i. all child-placing agency offices shall have documentation of approval;

ii. each transitional placing location seeking to be licensed for or currently licensed for a capacity of four or more youth shall have documentation of approval;

c. city fire department; if applicable:

i. each transitional placing location seeking to be licensed for or currently licensed for a capacity of four or more youth in a one or two family dwelling shall have documentation of approval;

d. local governing authority or zoning approval (if applicable); and

e. city or parish building permit office approval for new construction or renovations; and

f. Department of Education, if educational services are provided onsite.

C. Policies and Procedures—Foster Care, Adoption, Transitional Placing

1. The provider shall have a written statement of its philosophy, purpose, and program.

2. Child-placing agency policies shall include the provider's scope of services and limitations.

3. Child-placing agency policies shall include the geographical area to be served.

4. Child-placing agency policies shall include the ages of children and types of behaviors accepted for placement.

5. The provider shall have a clearly defined intake policy in keeping with its stated purpose and it shall be clear from the practices of the provider that it is carrying out these purposes.

6. Provider intake policy shall prohibit discrimination on the basis of race, color, creed, sex, national origin, disability, or ancestry. This shall not be construed to restrict the hiring or admission policies of a church or religious organization, which may give preference in hiring or admission to members of the church or denomination relating to foster care or adoption. DCFS may not limit or otherwise restrict the rights of religious sectarian child placing agencies to consider creed in any decision or action relating to foster care or adoption.

7. A provider shall have a written description of admission policies and criteria which expresses the needs, problems, situations, and patterns best addressed by its' program. These policies shall be available to the legal guardian for any child/youth referred for placement.

8. The provider policies and procedures shall include, but are not limited to the following areas:

a. personnel;

b. admission and discharge criteria;

c. services provided to children/youth placed with provider;

d. services offered to birth parent pre and post placement, if applying or licensed to provide adoption services;

e. services offered to foster parent pre and post-placement, if applying to or licensed to provide foster care services;

f. services offered to adoptive parent pre and post-placement if applying to or licensed to provide adoption services;

g. fees and cost charged for services paid by foster parents if applying to or licensed to provide foster care services;

h. fees and cost charged for services paid by adoptive parents if applying to or licensed to provide adoption services;

i. types of medical services offered to children/youth;

j. supervisory contact and visitation requirements;

k. behavior management techniques;

l. confidentiality;

m. records;

n. complaints;

o. grievances; and

p. fees and cost for services for transitional placing youth if applying to or licensed to provide transitional placing services.

9. The provider shall have written policies and procedures regarding staff persons who serve as foster parents, adoptive parents, or respite care providers.

10. Staff shall not serve as foster parents, adoptive parents, or respite care providers prior to completing the certification requirements.

11. The provider shall have written policies and procedures for board members, staff, and contract staff that address the prevention or appearance of a conflict of interest or misuse of influence.

12. The provider shall not conduct or approve the home study for any of its staff, board members, relatives, volunteers, or others with a direct affiliation with the agency. For all home studies certified on April 1, 2019 or after, arrangements shall be made with another licensed child-placing agency or a licensed clinical social worker, licensed master social worker with 3 years of experience in adoption or foster care services, licensed professional counselor, licensed psychologist, medical psychologist, licensed psychiatrist, or licensed marriage and family therapist to conduct and approve the home study, approve placements, and provide post placement supervision for its staff, board members, relatives, volunteers, or anyone with a direct affiliation with the agency.

13. In accordance with R.S. 46:1428, DCFS will provide information regarding influenza to providers prior to November 1 each year. The child-placing agency shall provide to all foster/adoptive parents, child's legal guardian with the exception of DCFS, and to all youth aged eighteen or above, the written information provided by DCFS relative to the risks associated with influenza and the availability, effectiveness, known contraindications, and possible side effects of the influenza immunization within seven calendar days of receipt from DCFS. This information shall include the causes and symptoms of influenza, the means by which influenza is spread, the places a parent or legal guardian may obtain additional information, and where a child/youth may be immunized against influenza.

14. As required by chapter 55 of Title 46 of R.S. 46:2701-2711, the child-placing agency shall post the current copy of "The Safety Box" newsletter issued by the Office of the Attorney General in the child-placing agency's office within seven calendar days of receipt from DCFS. The child-placing agency shall provide a copy of the safety box newsletter to all foster parents, adoptive parents, and youth in transitional placing programs within seven calendar days of receipt from DCFS. Items listed as recalled in the newsletter shall not be used and shall be immediately removed from the home/premises. Provider shall document within 14 calendar days of receipt from DCFS in the foster/adoptive parent record and transitional placing youth's record receipt of the newsletter and confirmation with the foster/adoptive parent and transitional placing youth that the home and environment were checked and the recalled products were removed.

D. Requirements for Respite Services for Foster and Adoptive Parents

1. The provider shall develop written policies and procedures to address the respite care needs of a child/youth or a foster/adoptive parent.

2. Respite care shall not be used as a substitute for placement of a child/youth.

3. Respite care shall be provided by a certified foster/adoptive parent in a child-placing agency approved home.

4. Prior to providing respite, respite provider shall receive from the CPA or foster/adoptive parent pertinent information regarding the child/youth's history, current behavior, and information regarding the service plan of the child.

E. Records—Foster Care, Adoption, Transitional Placing

1. The administrative record shall contain a written plan describing the services and programs offered by the provider.

2. The administrative record shall contain an organizational chart.

3. The administrative record shall contain all leases, contracts, and purchase-of-service agreements to which the provider is a party.

4. The provider shall ensure that all entries in records are legible, signed by the person making the entry, and accompanied by the date on which the entry was made.

5. All records shall be maintained in an accessible, standardized order and format. If a provider maintains records in an electronic format only, a staff person shall be immediately available at all times during the licensing inspection to locate information on the computer that is requested by Licensing staff and print information if requested. Provider shall also have a contingency plan that would allow Licensing staff to continue to review records in the event a power outage occurs.

6. Provider shall maintain a list of all certified foster and adoptive parents, approved homes, and transitional placing locations.

7. The child-placing agency shall provide a certificate to foster/adoptive parents which note names of foster/adoptive parents, approved home address, and date of expiration of certification. Certification shall expire one year from the date of original certification and shall be renewed annually thereafter.

F. Confidentiality of Records—Foster Care, Adoption, Transitional Placing

1. Records shall be the property of the provider and shall be secured against loss, tampering, and unauthorized use or access.

2. The provider shall maintain the confidentiality of all children's records including, but not limited to all court related documents, educational and medical records. Staff shall not disclose or knowingly permit the disclosure of any information concerning the child/youth or his/her family, directly or indirectly, to other children/youth or other unauthorized person.

3. When a youth has reached the age of majority and is not interdicted, a provider shall obtain the youth's written, informed consent prior to releasing any information in which the youth or his/her family may be identified. Consent is not needed for authorized state and federal agencies.

4. When the child/youth is a minor or is interdicted, the provider shall obtain written, informed consent from the legal guardian(s) prior to releasing any information from which the child/youth or his family may be identified. Consent is not needed for authorized state and federal agencies.

5. Upon request, the provider shall make available information in the record with written authorization from the legal guardian. If, in the professional judgment of the provider, it is believed that information contained in the record would be injurious to the health or welfare of the child/youth, the provider may deny access to the information in the record. In any such case, the provider shall document written reasons for denial in the child/youth's file.

6. The provider may use information from the child/youth’s record for teaching and research purposes, development of the governing body's understanding, and knowledge of the provider's services, or similar educational purposes, provided names are deleted, other identifying information redacted or concealed, and written authorization to include signature and date is obtained from the child/youth’s legal guardian(s). If 18 years or older, written authorization to include signature and date shall be obtained from the youth.

7. All records shall be retained and disposed of in accordance with state and federal laws. In accordance with CHC 1186, any person who violates the requirement of confidentiality shall be fined not more than five hundred dollars or imprisoned for not more than ninety days or both.

G. Retention of Records—Foster Care, Adoption, Transitional Placing

1. For licensing purposes, documentation of the child-placing agency’s previous 12-months’ activity shall be available for review during all licensing inspections. Records shall be accessible during the provider’s office hours.

2. For licensing purposes, children/youth’s information shall be kept on file and available for review during all licensing inspections and for a minimum of one year from date of discharge from the program.

3. For licensing purposes, records of owner, operator, staff, volunteers, and contractors shall be kept on file and available for review during all licensing inspections and for a minimum of one year from termination/resignation/providing services for the agency.

4. All records shall be retained and disposed of in accordance with state and federal laws.

5. Adoption case records shall be maintained indefinitely following final placement of a child.

6. If the provider closes, the provider shall submit adoption case records to DCFS in an electronic format with encryption details or provide the department a notarized statement within 30 calendar days of closure, indicating that the records are retained and by whom. Records may be retained by another licensed child-placing agency or with a secure storage vendor.

H. Personnel Requirements and Qualifications—Foster Care, Adoption, Transitional Placing

1. The provider shall ensure that all staff members are properly certified or licensed as required by law and appropriately qualified in accordance with child-placing agency regulations

2. Staff may work in more than one capacity provided they meet the qualifications and training requirements for each position and are able to fulfill the job duties for each position.

3. Each child-placing agency shall have a qualified full-time Program Director who shall supervise child placement activities and casework services performed by the agency. In addition to ensuring that licensing requirements are met, the program director is responsible for planning,

managing, and controlling the agency's daily activities, as well as responding to staff, foster/adoptive parents, and children/youth concerns.

4. The program director or person authorized to act on behalf of the program director shall be accessible to staff, certified foster/adoptive parents, and representatives of the department at all times (24 hours per day, 7 days per week).

5. In the short term absence of the program director, which shall not exceed 120 calendar days in a calendar year, an individual who may or may not qualify for the position shall be delegated the same authority and responsibility of the program director.

6. The program director shall possess at least one of the following qualifications if hired on or after April 1, 2019:

a. a doctorate degree in a human services field or in administration or business;

b. a master's degree in a human services field or in administration or business and one year of work experience in a human services agency;

c. a bachelor's degree in a human services field or in administration or business and at least two years of work experience in a human services agency.; or

d. six years of work experience in a human services field or a combination of college credits and work experience for a total of six years. Applicants may receive credit for college coursework in business, management, or a human service field with 15 credit hours substituting for 6 months of work experience not to exceed 60 credit hours.

7. Effective April 1, 2019, staff conducting supervisory visits with foster/adoptive parents and/or children shall possess, at a minimum, a bachelor's degree in social work or a human service related bachelor's degree.

I. Staff Records—Foster Care, Adoption, Transitional Placing

1. The provider shall have a record for each staff person.

2. Staff record shall contain an application for employment denoting education, training, and experience of staff person.

3. Staff record shall contain documentation of applicable professional or paraprofessional credentials/certifications according to state law.

4. Staff record shall contain a written job description signed and dated by staff person.

5. Staff record shall contain three signed and dated reference checks or documentation of telephone reference checks dated within 12 months prior to hire attesting affirmatively to the individual's character, qualifications, and suitability for the position assigned. References shall be obtained from individuals not related to the staff person.

6. Staff record shall contain staff's hire and termination/resignation dates.

7. Staff record shall contain a copy of the current driver's license for staff who transport children/youth.

8. Staff record shall contain reports, corrective action, and disciplinary action relating to the staff's employment with the provider.

9. Prior to employment, staff record shall contain a satisfactory fingerprint-based criminal background check as noted in §7314.A., §7314.C., and/or §7314.D., as applicable and required by R.S.15:587.1 and 46:51.2.

a. Staff shall have a criminal background check on file with the child-placing agency in accordance with R.S.15:587.1(C) and R.S 46:51.2.

b. This check shall be obtained prior to the individual being hired, present on the premises, or having access to children/youth.

c. No person shall be hired or present on the premises of the child-placing agency until such person has submitted his or her fingerprints as noted in §7309.C. –D., §7314.A. - G., and/or §7315.B., as applicable and it has been determined that such person has not been convicted of, or pled guilty or *nolo contendere* to any crime listed in R.S. 15:587.1(C).

d. No person who has been convicted of, or pled guilty or nolo contendere to any offense included in R.S. 15:587.1(C), shall be hired by, continue employment, or be present in any capacity on the premises of the child-placing agency.

e. Any employee who is convicted of, or pled guilty or nolo contendere to any crime listed in R.S. 15:587.1(C) shall not continue employment after such conviction, guilty plea, or plea of nolo contendere.

f. For staff hired effective April 1, 2019, CBCs shall be dated no earlier than 45 days of the individual being hired, being present on the premises, or having access to children/youth.

10. Prior to employment, staff record shall contain a state central registry clearance form indicating that the staff person is not listed on the state central registry with a justified finding of child abuse and/or neglect.

a. Prior to April 1, 2019, all staff were required to have on file a state central registry clearance form from child welfare noting that the staff person is not listed on the state central registry in accordance with R.S. 46:1414.1. No person who is recorded on any state's child abuse and neglect registry with a valid (justified) finding of abuse and/or neglect shall be eligible for employment in a licensed child-placing agency.

b. Prior to April 1, 2019, all staff were required to have on file a clearance from any other state's child abuse and neglect registry in which the staff person resided within the proceeding five years. No person who is recorded on any state's child abuse and neglect registry with a valid (justified) finding of abuse and/or neglect shall be eligible for employment in a licensed child-placing agency.

c. In accordance with R.S. 46:1414.1, an inquiry of the State Central Registry for all staff (paid, non-paid and volunteer staff) shall be conducted prior to employment being offered to a potential hire. Staff persons who have resided in another state within the proceeding five years, provider shall request a check and obtain State Central Registry clearance from that state's child abuse and neglect registry. Louisiana State Central Registry clearance forms shall be dated no earlier than 45 days prior to the staff being present on the premises or having access to children/youth. Other states' State Central Registry clearance forms shall be dated no earlier than 120 days prior to the staff being present on the premises or having access to children/youth; however, individuals who continue to reside outside of the state of Louisiana, but volunteer with and/or work for a licensed provider in the state of Louisiana, their clearances shall be dated no earlier than 45 days prior to hire and/or having access to children/youth. No person who is recorded on any state's child abuse and neglect registry with a valid (justified) finding of abuse and/or neglect shall be eligible for employment in a licensed child-placing agency.

i. If the provider requests an out-of-state state central registry check and that state advises that they are unable to process the request due to statutory limitations, documentation of such shall be kept on file.

d. Upon notification from child welfare that the staff is not listed on the state central registry, the provider shall maintain on file the state central registry clearance form noting that the staff's name does not appear on the registry with a justified (valid) finding of abuse and/or neglect. A request shall be submitted to child welfare every five years for staff prior to the issue date noted on the state central registry clearance form and at any time upon the request of DCFS if reasonable suspicion exists that a staff may be listed on the state central registry.

e. If after the initial state central registry clearance form is received by provider from child welfare noting that the staff is not listed on the state central registry and due to a new valid finding, the staff receives a subsequent notice that he/she is listed on the state central registry (issued after the provider was licensed) and advises the provider of the new information prior to their appeal rights being exhausted, licensing shall be notified within 24 hours or no later than the next business day, whichever is shorter. The staff with the valid (justified) finding of abuse and/or neglect shall be directly supervised by another paid staff (employee) of the child-placing agency, at any and all times when he/she is present on the premises and/or is in the presence of a child/youth. The employee responsible for supervising the individual shall not be suspected to be a perpetrator with a justified (valid) determination of abuse and/or neglect. Under no circumstances shall the staff with the valid (justified) finding of abuse and/or neglect be left alone and unsupervised with a child/youth pending the official determination from child welfare that the individual is or is not listed on the state central registry.

f. Upon notification to the provider from child welfare that the staff is listed on the state central registry, the staff shall no longer be eligible for employment with the child-placing agency. The provider shall submit a signed, dated statement to licensing within 24 hours, but no later than the next business day indicating that the staff with the valid (justified) finding of abuse and/or neglect has been terminated. If this statement is not received by licensing within the aforementioned timeframe, the application shall be denied or license shall be immediately revoked.

g. Any information received or knowledge acquired by the provider that a current staff (paid, non-paid and volunteer) is a perpetrator of abuse and/or neglect with a justified (valid) determination of abuse or neglect prior to receipt of official notification from child welfare, shall be immediately reported verbally to licensing management staff and followed up in writing no later than the close of business on the next business day. Prior to receipt of the official notification and immediately upon the knowledge that a justified (valid) finding has been issued by DCFS, the individual shall be directly supervised by a paid staff (employee) of the child-placing agency, at any and all times when he/she is present on the premises and/or is in the presence of a child/youth. The employee responsible for supervising the individual must not be suspected to be a perpetrator with a justified (valid) determination of abuse and/or neglect. Under no circumstances shall the individual with the valid (justified) finding of abuse and/or neglect be left alone and unsupervised with a child/youth pending the official determination from child welfare that the individual is or is not listed on the state central registry.

h. State central registry clearances are not transferable from one owner to another.

11. A new fingerprint-based criminal background clearance and Louisiana State Central Registry clearance as referenced in §7313.I..9, §7313.I.10., §7313.L., §7313.M., and/or §7314.A.-F., as applicable are required if an individual is terminated, resigns, or no longer provides services for longer than one 24 hour period and is then re-instated.

J. Staff Orientation—Foster Care, Adoption, Transitional Placing

1. All staff hired effective April 1, 2019 or after, shall complete the DCFS "mandated reporter training" available at dcfs.la.gov within the individual's first five working days from the date of hire and prior to exercising job duties. Documentation of training shall be the certificate obtained upon completion of the training.

2. Staff shall complete orientation training within the individual's first 15 working days from date of hire. Provider's orientation program shall include the following:

a. child-placing agency philosophy and goals;

b. staff job duties and responsibilities;

c. organizational policies;

d. children/youth's rights;

e. detecting and reporting suspected abuse and neglect;

f. confidentiality of information and records;

g. reporting and documenting incidents;

h. children/youth grievance procedure;

i. behavior management;

j. LGBTQ awareness;

k. recognizing mental health concerns;

l. detecting signs of illness or dysfunction that warrant medical or nursing intervention;

m. safe self-administration and handling of medications;

n. administrative procedures;

o. prohibited practices for foster/adoptive parents;

p. cultural sensitivity;

q. transportation of children/youth;

r. foster/adoptive parent grievance procedure;

s. child-placing agency rules for transitional placing programs if licensed to provide transitional placing services;

t. prohibited practices for transitional placing programs if licensed to provide transitional placing services; and

u. emergency and safety procedures for transitional placing programs if licensed to provide transitional placing services.

3. Documentation of the orientation training shall consist of a statement/checklist in the staff record signed and dated by the staff person and program director or designee, attesting to having received the applicable orientation training and the dates of the orientation training.

4. Staff shall not exercise job duties until orientation is completed.

5. The provider shall maintain orientation training materials which shall be available for review.

6. All staff hired effective April 1, 2019, or after working with foster/adoptive parents shall complete the Reducing the Risk of SIDS in Early Education and Child Care training available at www.pedialink.org or the Safe Sleep, Reducing the Risk of SIDS training available through DCFS at www.moodle.lcwta.org within the individual's first 15 working days after hire. Documentation of training shall be the certificate obtained upon completion of the training.

7. All new direct care staff hired effective April 1, 2019 or after working in the transitional placing program shall receive certification in adult cardiopulmonary resuscitation (CPR) and first aid within 60 days of employment. No staff person shall be left unsupervised with youth until he/she has completed all required training.

K. Staff Annual Training—Foster Care, Adoption, Transitional Placing

1. All staff having direct contact with children/youth shall receive annual training on the following:

a. philosophy and goals;

b. job duties and responsibilities;

c. organizational policies;

d. children/youth's rights;

e. detecting and reporting suspected abuse and/or neglect;

f. confidentiality of information and records;

g. reporting and documenting incidents;

h. children/youth grievance procedure;

i. behavior management;

j. LGBTQ awareness;

k. recognizing mental health concerns;

l. detecting signs of illness or dysfunction that warrant medical or nursing intervention;

m. safe self-administration and handling of medications;

n. administrative procedures;

o. cultural sensitivity;

p. transportation of children/youth;

q. prohibited practices for foster/adoptive parents if licensed to provide foster/adoptive services;

r. foster/adoptive parent grievance procedure if licensed to provide foster/adoptive services;

s. prohibited practices for transitional placing programs if licensed to provide transitional placing services; and

t. emergency and safety procedures for transitional placing programs if licensed to provide transitional placing services.

2. Documentation of the annual training shall consist of a statement/checklist in the staff record signed and dated by the staff person and program director or designee, attesting to having received the applicable annual training and the dates of the annual training.

3. The provider shall maintain training materials which shall be available for review.

4. Effective April 1, 2019, all staff that have direct contact with children shall complete the DCFS mandated reporter training available at dcfs.la.gov within 45 days and updated annually. Documentation of training shall be the certificate obtained upon completion of the training.

5. Effective April 1, 2019, all staff working with foster/adoptive parents shall complete the "Reducing the

Risk of SIDS in Early Education and Child Care" training available at www.pedialink.org or the Safe Sleep, Reducing the Risk of SIDS training available through DCFS at www.moodle.lcwta.org within 45 days and updated annually. Documentation of training shall be the certificate obtained upon completion of the training.

6. Effective April 1, 2019, direct care staff working in the transitional placing program shall receive certification in adult cardiopulmonary resuscitation (CPR) and first aid within 60 days. CPR and first aid shall be updated prior to the expiration of the certification as indicated by the American Red Cross, American Heart Association, or equivalent organization.

L. Volunteers—Foster Care, Adoption, Transitional Placing

1. Providers shall be responsible for the actions of volunteers.

2. Volunteers shall complete orientation training as outlined in §7313.J.2. Documentation of the training shall consist of a statement/checklist in the record signed and dated by the volunteer and program director or designee, attesting to having received the applicable orientation training and the dates of the orientation training.

3. Volunteer record shall contain three documented reference checks dated within 12 months prior to beginning volunteer services. The three signed and dated reference checks or telephone notes shall attest affirmatively to the individual's character, qualifications, and suitability for the position assigned. References shall be obtained from individuals not related to the volunteer.

4. Volunteer record shall contain documentation of duties and responsibilities signed and dated by the program director or designee and volunteer.

5. Prior to providing volunteer services, volunteer record shall contain a satisfactory fingerprint-based criminal background check as noted in §7313.I.9.

6. Prior to providing volunteer services, volunteer record shall contain a state central registry clearance form as noted in §7313.I.10.

M. Contractors—Foster Care, Adoption, Transitional Placing

1. Contractors who provide services to children/youth unaccompanied by paid staff or have access to children/youth unaccompanied by a paid staff shall have on file a satisfactory fingerprint-based criminal background check as noted in §7314.B., §7314.E., and/or §7314.F., as applicable. This check shall be obtained prior to providing services unaccompanied by a paid staff or having access to children/youth unaccompanied by a paid staff.

a. No contractor shall provide services until such person has submitted his or her fingerprints as noted in §7314.B., §7314.E., and/or §7314.F., as applicable and it has been determined that such person has not been convicted of, or pled guilty or *nolo contendere* to any crime listed in R.S. 15:587.1(C).

b. No person who has been convicted of, or pled guilty or nolo contendere to any offense included in R.S. 15:587.1(C), shall provide services, continue to provide services, or be present in any capacity on the premises of the child-placing agency.

c. Any contractor who is convicted of, or pled guilty or nolo contendere to any crime listed in R.S. 15:587.1(C) shall not continue to provide services after such conviction, guilty plea, or plea of nolo contendere.

d. Effective April 1, 2019, CBCs shall be dated no earlier than 45 days of the individual providing services, being present on the premises, or having access to children/youth.

2. Contractors who provide services to children/youth unaccompanied by paid staff or have access to children/youth unaccompanied by a paid staff shall have on file at the agency a state central registry clearance form which indicates that the contractor is not listed on any State Central registry with a valid finding of child abuse and/or neglect.

a. Prior to April 1, 2019, all contractors providing services to the child-placing agency were required to have on file a state central registry clearance form from child welfare that the contractor is not listed on the state central registry in accordance with R.S. 46:1414.1. No person who is recorded on any state's child abuse and neglect registry with a valid (justified) finding of abuse and/or neglect shall be eligible for employment or provide services in a licensed child-placing agency.

b. Prior to April 1, 2019 , all contractors providing services to the child-placing agency were required to have on file a clearance from any other state's child abuse and neglect registry in which the contractor resided within the proceeding five years. No person who is recorded on any state's child abuse and neglect registry with a valid (justified) finding of abuse and/or neglect shall be eligible for employment or provide services in a licensed child-placing agency.

c. For individuals who have resided in another state within the proceeding five years, provider shall request a check and obtain clearance information from that state's child abuse and neglect registry prior to providing services or having access to children/youth.

i. If the provider requests an out-of-state state central registry check and that state advises that they are unable to process the request due to statutory limitations, documentation of such shall be kept on file.

d. Louisiana State Central Registry clearance forms shall be dated no earlier than 45 days prior to the individual providing services or having access to children/youth. Other states' State Central Registry clearance information shall be dated no earlier than 120 days prior to the individual providing services or having access to children/youth;

however, individuals who continue to reside outside of the state of Louisiana, but contract with and/or work for a licensed provider in the state of Louisiana, their clearances shall be dated no earlier than 45 days prior to hire and/or having access to children/youth. No person who is recorded on any state's child abuse and neglect registry with a valid (justified) finding of abuse and/or neglect shall be eligible for employment in a licensed child-placing agency.

e. Upon notification from child welfare that the individual is not listed on the state central registry, the provider shall maintain on file the state central registry clearance indicating that the individual's name does not appear on the registry with a justified (valid) finding of abuse and/or neglect. No person who is recorded on any state's child abuse and neglect registry with a valid (justified) finding of abuse and/or neglect shall be eligible to provide services in a licensed child-placing agency.

f. A request shall be submitted to child welfare every five years for contractors prior to the issue date noted on the state central registry clearance form and at any time upon the request of DCFS if reasonable suspicion exists that a staff may be listed on the state central registry.

g. If after the initial state central registry clearance form is received by provider from child welfare noting that the individual is not listed on the state central registry and due to a new valid finding, the contractor receives a subsequent notice that he/she is listed on the state central registry (issued after the provider was licensed) and advises the provider of the new information prior to their appeal rights being exhausted, licensing shall be notified within 24 hours or no later than the next business day, whichever is shorter. The individual with the valid (justified) finding of abuse and/or neglect shall be directly supervised by a paid staff (employee) of the child-placing agency at any and all times when he/she present on the premises and/or is in the presence of a child/youth. The employee responsible for supervising the individual must not be suspected to be a perpetrator with a justified (valid) determination of abuse and/or neglect. Under no circumstances shall the individual with the valid (justified) finding of abuse and/or neglect be left alone and unsupervised with a child/youth pending the official determination from child welfare that the individual is or is not listed on the state central registry.

h. Upon notification to the provider from child welfare that the contractor is listed on the state central registry, the individual shall no longer be eligible to provide services for the child-placing agency. The provider shall submit a signed, dated statement to licensing within 24 hours or no later than the next business day indicating that the individual with the valid (justified) finding of abuse and/or neglect has been relieved of his duties with the child-placing agency with the effective date of termination of services. If this statement is not received by licensing within the aforementioned timeframe, the license shall be immediately revoked.

i. Any information received or knowledge acquired by the provider that a current contractor is a perpetrator of abuse and/or neglect with a justified (valid) determination of abuse or neglect prior to receipt of official notification from child welfare, shall be immediately reported verbally to licensing management staff and followed up in writing no later than the close of business on the next business day. Prior to receipt of the official notification and immediately upon the knowledge that a justified (valid) finding has been issued by DCFS, the individual shall be directly supervised by a paid staff (employee) of the child-placing agency, at any and all times when he/she is present on the premises and/or is in the presence of a child/youth,. The employee responsible for supervising the individual must not be suspected to be a perpetrator with a justified (valid) determination of abuse and/or neglect. Under no circumstances shall the individual with the valid (justified) finding of abuse and/or neglect be left alone and unsupervised with a child/youth pending the official determination from child welfare that the individual is or is not listed on the state central registry.

j. State central registry clearances are not transferable from one owner to another.

N. Foster Care, Adoption, and Transitional Placing

1. The provider shall have and adhere to written policies and procedures for documenting, reporting, investigating, and analyzing all incidents and other situations or circumstances affecting the health, safety, or well-being of a child/youth.

2. The provider shall submit a written report of the following incidents to the Licensing Section within one calendar day, excluding when the incident occurs on a weekend or state holiday. If the incident occurs on a weekend or state holiday, provider shall submit a written report on the first working day following the weekend or state holiday:

a. attempted suicide;

b. serious threat or injury to the child/youth's health, safety, or well-being;

c. elopement or unexplained absence of a child/youth;

d. unplanned hospitalizations or emergency room visits;

e. use of restraints;

f. evacuation of children/youth;

g. injuries of unknown origin; and

h. any other unplanned event or series of unplanned events, accidents, incidents, and other situations or circumstances affecting the health, safety or well-being of a child/youth.

3. The program director or designee shall:

a. immediately verbally notify the legal guardian of any incident noted in §7313.N.2; and

b. immediately verbally notify the appropriate law enforcement authority in accordance with state law.

4. If requested, the provider shall submit a final written report of the incident to the legal guardian as soon as possible, however no later than five working days of the incident.

5. All children/youth shall be accompanied by foster/adoptive parents or staff when emergency services are needed.

6. The provider shall verbally notify state office licensing management staff immediately in the event of a death and follow up with a written report within one calendar day of the verbal report. If the death occurs on a weekend or State holiday, provider shall verbally notify state office licensing management staff as soon as possible on the first working day following the weekend or State holiday and follow up with a written report the same day as the verbal notification. The provider shall immediately verbally notify the legal guardian and law enforcement in the event of a death. Report shall contain elements noted in §7313.N.8.

7. After reporting suspected abuse and/or neglect as required by Louisiana law, provider shall submit a written report to the Licensing Section immediately or the next working day if the suspected abuse and/or neglect occurred on a weekend or state holiday. For licensing purposes, the report shall contain elements noted in §7313.N.8.

8. At a minimum, the incident report shall contain the following:

a. date and time the incident occurred;

b. a brief description of the incident;

c. where the incident occurred;

d. names of any child, youth, foster/adoptive or respite parent, and staff involved in the incident;

e. immediate treatment provided, if any;

f. date and signature of the staff completing the report;

g. name and contact information of witnesses;

h. date and time the legal guardian, law enforcement, and licensing were notified; and

i. any follow-up actions required.

9. Program director or designee shall review each incident report within three calendar days and take appropriate corrective steps to prevent future incidents from occurring. Documentation to include the following:

a. actions taken regarding staff or foster/adoptive parents involved;

b. corrective action;

c. signature of program director or designee conducting review; and

d. date of review.

10. A copy of all written reports shall be maintained in a centralized record.

O. Data Collection and Quality Improvement—Foster Care, Adoption, Transitional Placing

1. The provider shall have written policies and procedures for maintaining a quality improvement program.

2. Provider shall perform a quarterly review of all incidents. Documentation of the quarterly review of incidents shall include:

a. date, time, list of children/youth, staff, and foster/adoptive parents involved in each incident;

b. patterns of behavior by specific child/youth, staff, and foster or adoptive parents;

c. plan of action for improvement in identified areas;

d. date review was completed; and

e. the signature of the staff person completing the review.

3. Documentation related to the quality improvement program shall be maintained for at least one year.

P. Abuse and Neglect—Foster Care, Adoption, Transitional Placing

1. The provider shall establish and follow written policies and procedures for detecting and reporting suspected abuse and/or neglect.

2. Child-placing agency policies shall include current definitions of abuse and neglect, mandated reporting requirements to the child protection agency, and applicable laws.

3. Child-placing agency policies and procedures shall protect the child/youth from potential harassment during the investigation.

4. Child-placing agency policies and procedures shall ensure that the provider does not delay reporting suspected abuse and/or neglect to the Child Protection Statewide Hotline 1-855-4LA-KIDS (1-855-452-5437).

5. Child-placing agency policies and procedures shall ensure that the provider does not require staff, including unpaid staff, to report suspected abuse/neglect to the provider or management prior to reporting to the Child Protection Statewide Hotline.

6. Child-placing agency policies and procedures shall ensure the staff involved in the incident does not work directly with the child/youth involved in the allegation(s) until an internal investigation is conducted by the provider and no evidence of wrongdoing is found or the department does not recommend further action.

7. Child-placing agency policies and procedures shall ensure that the staff person allegedly involved in the incident is not involved in conducting the investigation.

8. Child-placing agency policies and procedures shall ensure that confidentiality of the incident is protected.

9. Child-placing agency policies and procedures shall include abuse and neglect reporting protocol that requires all staff to report any incidents of abuse and/or neglect whether that abuse or neglect was perpetrated by another staff member, a family member, any other person.

10. As mandated reporters, all staff, owners, volunteers, and contractors shall report any suspected abuse and/or neglect of a child/youth whether that abuse or neglect was perpetrated by a staff member, a family member, or any other person in accordance with R.S 14:403 to the Louisiana Child Protection Statewide Hotline, 1-855-4LA-KIDS (1-855-452-5437). This information shall be posted in an area regularly used by staff.

11. Youth receiving transitional placing services shall be informed of the current definitions of abuse and neglect. Documentation in youth's file shall consist of a signed and dated statement by youth attesting that the information was provided or discussed.

12. Youth receiving transitional placing services shall be provided with the current Child Protection Statewide Hotline 1-855-4LA-KIDS (1-855-452-5437) for reporting abuse and/or neglect. Documentation in youth's file shall consist of a signed and dated statement by youth that the telephone number was provided.

Q. Children and Youth's Rights—Foster Care, Adoption, Transitional Placing

1. The provider shall have written policies and procedures that ensure each child/youth's rights are guaranteed and protected.

2. A child/youth's rights shall not be infringed upon or restricted in any way unless such restriction is necessary and noted in the child/youth's service or case plan. When individual rights are restricted, the provider shall clearly explain and document the restriction or limitation on those rights, the reasons the restrictions are necessary, and the extent and duration of those restrictions. Any restriction to the child's/youth's rights shall be approved by the legal guardian. The documentation shall be signed by child-placing agency staff, the child/youth, if developmentally appropriate, and the child/youth's legal guardian(s). Neither the service nor the case plan shall restrict the access of a child/youth to legal counsel or state or local regulatory officials.

3. A child/youth has the right to personal privacy and confidentiality. Any records and other information about the child/youth shall be kept confidential and released only with the legal guardian's expressed written consent or as required by law. If youth is 18 years of age or older, youth's written consent shall be obtained.

4. A child/youth shall not be photographed or recorded without the express written consent of the child's legal guardian(s). All photographs and recordings shall be used in a manner that respects the dignity and confidentiality of the child/youth. If youth is 18 years of age or older, youth's written consent shall be obtained.

5. A child/youth shall not participate in research projects without the express written consent of the child/youth's legal guardian(s). If youth is 18 years of age or older, youth's written consent shall be obtained.

6. A child/youth shall not participate in activities related to fundraising and publicity without the express written consent of the child/youth's legal guardian(s). If youth is 18 years of age or older, youth's written consent shall be obtained.

7. A child/youth has the right to be free from mental abuse, emotional abuse, physical abuse, and neglect.

8. Physical restraints shall not be used on children/youth except when child/youth pose an immediate danger to self or others.

9. A child/youth's civil rights shall not be abridged or abrogated solely as a result of placement in the provider's program.

10. A child/youth has the right to be treated with dignity in the delivery of services.

11. A child/youth has the right to receive preventive, routine, and emergency health care according to his individual needs to promote his or her growth and development.

12. A child/youth has the right to be involved, as appropriate to age, development, and ability, in assessment and service planning.

13. A child/youth has the right to consult with clergy and participate in religious services in accordance with his/her faith, but shall not be forced to attend religious services. The provider shall have a written policy of its' religious orientation, particular religious practices that are observed and any religious restrictions on admission. This description shall be provided to the child/youth and the child/youth's legal guardian(s). When appropriate, the provider shall determine the wishes of the legal guardian(s) with regard to religious observance and make every effort to ensure that these wishes are carried out. The provider shall ensure the foster parent arranges transportation and encourages participation by children/youth who desire to participate in religious activities in the community.

R. Right to Contact with Family and Collateral—Foster Care and Transitional Placing

1. A child/youth has the right to consult and have visits with his/her family (including but not limited to his or her mother, father, grandparents, brothers, and sisters), legal guardian(s) and friends subject only to reasonable rules. The reasons for any restrictions shall be recorded in the child/youth's service or case plan, approved by the legal guardian, and explained to the child/youth and his family. The child-placing agency representative shall review the restrictions in the service plan every 30 days and, if restrictions are renewed, written approval by the legal

guardian and the reasons for renewal shall be recorded in the child/youth's service plan. Documentation shall include signature and date of staff person reviewing the restrictions.

2. Written approval shall be required from the legal guardian prior to home visits being granted for youth receiving foster care or transitional placing services.

3. A child/youth has the right to telephone communication. The provider shall allow a child/youth to receive and place telephone calls in private subject only to reasonable rules and to any restrictions in the child/youth's service or case plan. The legal guardian shall approve any restriction on telephone communication in a child/youth's service plan. The child-placing agency representative shall review the restrictions in the service plan every 30 days and, if restrictions are renewed, approval by the legal guardian and the reasons for renewal shall be recorded in the child/youth's service plan. There shall be no restrictions on communication between a child/youth and the child/youth's legal counsel.

4. A child/youth has the right to send and receive mail and electronic mail. The provider shall allow children/youth to receive and send all mail unopened, uncensored, and unread by staff unless contraindicated by the child/youth's service or case plan and approved by the legal guardian. The child-placing agency representative and legal guardian shall review the restriction in the service plan every 30 days. Documentation shall include signature and date of staff person reviewing restrictions. Children/youth shall have access to all materials necessary for writing and sending letters and when necessary, shall receive assistance.

5. A child/youth has the right to consult freely and privately with legal counsel, as well as, the right to employ legal counsel of his/her choosing.

6. A child/youth has the right to communicate freely and privately with state and local regulatory officials.

7. The provider shall have written strategies to foster ongoing positive communication and contact between children/youth and their families, friends, and others significant in their lives.

S. Acknowledgement of Rights—Foster Care, Adoption, Transitional Placing

1. At the time of admission and when changes occur, each child/youth shall be fully informed and provided with a copy of all rights appropriate to his age and development noted in Sections 7313.P,Q, and R and of all rules and regulations governing child/youths' conduct and responsibilities. There shall be documentation signed and dated by the program director or designee, legal guardian, and the child/youth, if age appropriate acknowledging receipt of the rights, rules, and regulations.

T. Prohibited Practices by Foster Parents, Adoptive Parents, and Staff

1. The provider shall have written policies and procedures regarding its discipline and behavior management program. The policy shall include approved and prohibited methods of discipline and behavior management.

2. The provider shall ensure its discipline and behavior management policy is maintained in writing, is current, and is available to the child and the child's legal guardian.

3. The provider shall maintain a list of prohibited practices for foster/adoptive parents and staff that shall include the following:

a. use of chemical or mechanical restraint;

b. use of a belt or in any other object for disciplinary purposes;

c. use of corporal punishment such as slapping, spanking, paddling;

d. use of marching, standing, or kneeling;

e. use of physical discomfort except as required for medical, dental, or first aid procedures necessary to preserve the child/youth's life or health;

f. denial or deprivation of sleep or nutrition except under a physician's order;

g. denial of access to bathroom facilities;

h. use of verbal abuse, ridicule, humiliation, shaming, or sarcasm;

i. use of derogatory remarks about the child, child's family members, race, or gender;

j. withholding of meals, except under a physician's order;

k. requiring a child/youth to remain silent for a long period of time;

l. denial of shelter, clothing or bedding;

m. use of harsh physical labor;

n. withholding of family visitation or communication with family;

o. withholding of emotional support;

p. denial of school services;

q. denial of therapeutic services;

r. use of painful stimulus to control or direct behavior;

s. use of hyperextension of any body part beyond normal limits;

t. use of joint or skin torsion;

u. use of straddling, pressure, or weight on any part of the body;

v. use of maneuvers that obstruct or restrict circulation of blood or obstructs an airway;

w. use of choking;

x. use of head hold where the head is used as a lever to control movement of other body parts;

y. use of punching, hitting, poking, pinching, or shoving;

z. use of punishment for actions over which the child has no control such as enuresis, encopresis, or incidents that occur in the course of toilet training activities;

aa. threatening child/youth with a prohibited action even though there is/was no intent to follow through with the threat;

bb. use of cruel, severe, unusual, degrading, or unnecessary punishment;

cc. use of yelling, yanking, shaking;

dd. use of exercise as a form of discipline

ee. exposing a child or youth to extreme temperatures;

ff. placing any object in a child's mouth as a form of discipline;

gg. use of abusive or profane language;

hh. covering mouth, nose, eyes, or any part of the face;

ii. placing a child or youth into uncomfortable positions;

jj. use of other impingements on the basic rights of children/youth for care, protection, safety, and security;

kk. use of organized social ostracism, such as codes of silence; or

ll. punishing a group of children/youth for actions committed by one or a selected few.

4. The child/youth, where appropriate, and the child/youth's legal guardian(s) shall receive a list of the prohibited practices within 10 calendar days of admission. If the child/youth is unable to read and comprehend the list of prohibited practices, the provider shall explain the list using developmentally appropriate language. There shall be documentation signed and dated acknowledging receipt of the list of prohibited practices by the child/youth where appropriate, and the child/youth's legal guardian(s)in the child/youth's record.

U. Grievance Process—Foster Care, Adoption, Transitional Placing

1. The provider shall have written policies and procedures outlining the process by which a child/youth may file a grievance against the child-placing agency or foster/adoptive parent without fear of retaliation.

2. The written grievance procedure shall include a formal process for the child/youth to file grievances including procedures for filing verbal, written, or anonymous grievances.

3. The written grievance procedure shall include a formal process for the provider to respond to the child/youth's grievance within five calendar days of receipt of the grievance.

4. The provider shall have documentation signed and dated by the child/youth, if developmentally appropriate acknowledging that a written copy of the grievance procedure was provided to the child/youth within 10 calendar days of entering the program.

5. The provider shall maintain a log documenting all verbal, written, and anonymous grievances filed. This documentation shall include the date of the grievance, action taken by the provider in response to the grievance, and any follow up action involving the child/youth.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1407(D).

HISTORICAL NOTE: Promulgated by the Department of Children and Family Services, Licensing Section, LR 45:368 (March 2019), effective April 1, 2019, LR 46:683 (May 2020), effective June 1, 2020, LR 47:351 (March 2021), effective April 1, 2021, repromulgated LR 47:441 (April 2021).

§7314. Criminal Background Checks

A. Criminal Background Checks for Staff and Volunteers—Foster Care and Adoption

1. Prior to employment, staff (paid and non-paid) record shall contain satisfactory fingerprint-based Louisiana State Police check.

a. Staff shall have a criminal background check on file with the child-placing agency in accordance with R.S.15:587.1 and R.S 46:51.2. If an individual has previously obtained a certified copy of their criminal background check from the Louisiana State Police, such certified copy shall be acceptable as meeting the CBC requirements. This certified copy of the criminal background check shall be accepted for a period of one year from the date of issuance of the certified copy. This certified copy shall be kept on file at the facility. Prior to the one-year expiration of the certified criminal background check, a new fingerprint-based satisfactory criminal background check shall be obtained from Louisiana State Police. If the clearance is not obtained prior to the one-year expiration of the certified criminal background check, the staff is no longer allowed on the premises until a clearance is received.

b. This check shall be obtained prior to the individual being hired, present on the premises, or having access to children/youth.

c. No person shall be hired or present on the premises of the child-placing agency until such person has submitted his or her fingerprints to the Louisiana State Police and it has been determined that such person has not been convicted of, or pled guilty or *nolo contendere* to any crime listed in R.S. 15:587.1(C).

d. No person who has been convicted of, or pled guilty or *nolo contendere* to any offense included in R.S. 15:587.1(C), shall be hired by, continue employment, or be

present in any capacity on the premises of the child-placing agency.

e. Any employee who is convicted of, or pled guilty or *nolo contendere* to any crime listed in R.S. 15:587.1(C) shall not continue employment after such conviction, guilty plea, or plea of *nolo contendere*.

f. For staff hired effective April 1, 2019, CBCs shall be dated no earlier than 45 days of the individual being hired, being present on the premises, or having access to children/youth.

g. Only certified CBCs obtained by the individual for themselves from LSP are transferable from one owner to another owner.

h. A fingerprint-based criminal background check through the FBI as required in §7314.C. and §7314.D. is acceptable in lieu of a fingerprint-based check from the Louisiana State Police for staff (paid and non-paid) in foster care and adoption programs.

B. Criminal Background Checks for Contractors—Foster Care and Adoption

1. Contractors who provide services to children/youth unaccompanied by paid staff or have access to children/youth unaccompanied by a paid staff shall have on file a satisfactory fingerprint-based check from the Louisiana State Police. This check shall be obtained prior to providing services unaccompanied by a paid staff or having access to children/youth unaccompanied by a paid staff.

a. No contractor shall provide services until such person has submitted his or her fingerprints to the Louisiana State Police and it has been determined that such person has not been convicted of, or pled guilty or *nolo contendere* to any crime listed in R.S. 15:587.1(C).

b. No person who has been convicted of, or pled guilty or *nolo contendere* to any offense included in R.S. 15:587.1(C), shall provide services, continue to provide services, or be present in any capacity on the premises of the child-placing agency.

c. Effective April 1, 2019, CBCs shall be dated no earlier than 45 days of the individual providing services, being present on the premises, or having access to children/youth.

d. Only certified CBCs obtained by the individual for themselves from LSP are transferable from one owner to another owner.

e. A fingerprint-based criminal background check through the FBI is acceptable in lieu of a fingerprint-based check from the Louisiana State Police for contractors in foster care and adoption programs.

C. Criminal Background Checks for Current Staff and Volunteers as of June 1, 2020—Transitional Placing

1. Effective June 1, 2020, and in accordance with Public Law 115-123 and R.S. 15:587.1, provider shall submit a request for a fingerprint-based criminal background check through the Federal Bureau of Investigation (FBI) for all currently employed staff (paid and non-paid staff and volunteers). The request shall be submitted to the FBI no later than June 12, 2020. Documentation of submission shall be available for review and submitted upon request of the Licensing Section.

2. Upon notification that the staff person has been convicted of a crime listed in 15:587.1(C), the individual shall no longer be eligible for employment or able to provide services for the provider. The provider shall submit a signed, dated statement to Licensing within 24 hours or no later than the next business day after notification has been made indicating that the staff has been terminated or individual will no longer be providing services. If this statement is not received by Licensing within the aforementioned timeframe, the license shall be immediately revoked.

3. Upon notification that additional information is required in order to make a decision, the provider has seven calendar days to submit the requested information to the requesting agency. Documentation of the date the requesting agency requested additional information shall be available for review. If the information is not submitted as requested within seven calendar days, the individual is ineligible to return to work or provide services. The provider shall submit a signed, dated statement to Licensing within 24 hours or no later than the next business day after the seventh day indicating that the individual has been suspended or no longer providing services. However, if the information is not submitted within 30 calendar days, the individual shall be terminated or no longer eligible to provide services for the provider. If the information is not submitted before the thirty-first calendar day following the request for information, the individual shall be terminated or no longer eligible to provide services for the provider. The provider shall submit a signed, dated statement to Licensing within 24 hours or no later than the next business day after the thirtieth day indicating that the individual has been relieved of his position with the effective date of the termination/removal. If the statement is not received within the aforementioned timeframe, the license shall be immediately revoked.

4. Criminal background clearances are not transferable between owners.

D. Criminal Background Checks for Prospective Staff and Volunteers effective June 1, 2020—Transitional Placing

1. Effective June 1, 2020, and in accordance with Public Law 115-123 and R.S. 15:587.1, documentation of a satisfactory criminal background check through the Federal Bureau of Investigation (FBI) is required prior to the individual (paid and non-paid staff and volunteers) being present in the facility or having access children/youth. No person who has been convicted of, or pled guilty or *nolo contendere* to any offense included in R.S. 15:587.1 shall be hired by or present in any capacity in the facility.

2. Criminal background checks (CBC) through the Federal Bureau of Investigation (FBI) shall be dated no earlier than 45 days of the individual being present in the facility or having access to children/youth.

3. Criminal background clearances are not transferable between owners.

E. Criminal Background Checks for Current Contractors as of June 1, 2020—Transitional Placing

1. Contractors who provide services to children/youth unaccompanied by paid staff or have access to children/youth unaccompanied by a paid staff shall have on file a satisfactory fingerprint-based check from the FBI. This check shall be obtained prior to providing services unaccompanied by a paid staff or having access to children/youth unaccompanied by a paid staff.

2. Contractors hired to perform work which does not involve any contact with children/youth, shall not be required to have a criminal background check if accompanied at all times by a staff person when children/youth are present in the agency.

3. A person shall not be deemed a contractor if he/she is a staff person of the facility.

4. Effective June 1, 2020, and in accordance with Public Law 115-123 and R.S. 15:587.1, provider shall submit a request for a criminal background check through the Federal Bureau of Investigation (FBI) for all current contractors. The request shall be submitted to the FBI no later than June 12, 2020. Documentation of submission shall be available for review and submitted upon request of the Licensing Section.

5. Upon notification that the contractor has been convicted of a crime listed in 15:587.1(C), the individual shall no longer be eligible to provide services for the provider. The provider shall submit a signed, dated statement to Licensing within 24 hours or no later than the next business day after notification has been made indicating that the contract has been terminated and the individual is no longer allowed access to the children or children of residents. If this statement is not received by Licensing within the aforementioned timeframe, the license shall be immediately revoked.

6. Upon notification that additional information is required in order to make a decision, the provider has seven calendar days to submit the requested information to the requesting agency. Documentation of the date the requesting agency requested additional information shall be available for review. If the information is not submitted as requested within seven calendar days, the individual is ineligible to return to work or provide services. The provider shall submit a signed, dated statement to Licensing within 24 hours or no later than the next business day after the seventh day indicating that the individual has been suspended or no longer providing services. However, if the information is not submitted within 30 calendar days, the individual shall be terminated or no longer eligible to provide services for the provider. If the information is not submitted before the thirty-first calendar day following the request for information, the individual shall be terminated or no longer eligible to provide services for the provider. The provide shall submit a signed, dated statement to Licensing within 24 hours or no later than the next business day after the thirtieth day indicating that the individual has been relieved of his position with the effective date of the termination/removal. If the statement is not received within the aforementioned timeframe, the license shall be immediately revoked.

F. Criminal Background Checks for Prospective Contractors effective June 1, 2020—Transitional Placing

1. Contractors hired to perform work which does not involve any contact with residents or children of residents, shall not be required to have a criminal background check if accompanied at all times by a staff person when residents or children of residents are present in the facility.

2. A person shall not be deemed a contractor if he/she is a staff person of the facility.

3. Contractors hired to perform work which involves contact with residents or children of residents, shall be required to have documentation of a satisfactory fingerprint-based criminal background check through the Federal Bureau of Investigation (FBI) as required by R.S. 15:587.1 and R.S. 46:51.2. This check shall be obtained prior to the individual being present in the facility or having access to the residents or children of residents.

4. No person who has been convicted of, or pled guilty or *nolo contendere* to any offense included in 15:587.1(C), shall be hired by or present in any capacity in the facility.

G. Criminal Background Checks for Louisiana Department of Education staff—Foster Care, Adoption, and Transitional Placing effective June 1, 2020

1. Effective June 1, 2020, provider shall provide documentation that a fingerprint-based satisfactory criminal background check (CBC) through the Federal Bureau of Investigation (FBI) as required by R.S. 15:587.1 and R.S. 17:15 for all Louisiana Department of Education staff or local school district staff that interact with children/youth prior to the individual providing services to children/youth has been conducted. This check shall be obtained prior to the individual being present in the facility or providing services for the facility. No person who has been convicted of, or pled guilty or *nolo contendere* to any offense included in 15:587.1(C), shall be present in any capacity in any licensed facility.

a. For the first school year that a LDE staff person or local school district staff person provides services to a child or children, that LDE staff person or local school district staff person shall provide documentation of a fingerprint-based satisfactory criminal record clearance through the Federal Bureau of Investigation (FBI) as required by R.S.17:15 and R.S. 15:587.1 or shall provide the original, completed, signed, notarized, DCFS-approved affidavit dated June 1, 2020, or after to the provider prior to being present and working with a child or children at the facility. A photocopy of the original affidavit shall be kept on file at the facility. This affidavit will be acceptable for the entire school year noted in the text of the affidavit and expires on May thirty-first of the current school year. For all

subsequent school years following the first year, the LDE staff or local school district staff person shall present a new affidavit or an original, completed, and signed letter from the superintendent of the school district or designee or superintendent of LDE or designee noting that the individual continues to meet certain specific requirements. The provider will need to view the original letter presented by the LDE staff or local school district staff person and keep a photocopy of the original letter on file at the facility. This letter will be acceptable for the entire school year noted in the text of the letter and expires on May thirty-first of the current school year. The letter is acceptable only if all the following conditions are met:

i. the LDE staff person or local school district staff person has remained employed with the same school district as noted in the affidavit the provider has on file;

ii. the provider has maintained a copy of the affidavit on file; and

iii. the letter is presented on school district letterhead or LDE letterhead and signed by the superintendent of the school district or designee or superintendent of LDE or designee

iv. the letter notes the following:

(a). individual is an employee and/or representative of the school district for the (ex. 2020-2021) school year and is not employed or contracted on an emergency basis nor pursuant to written approval of any district judge or district attorney under to R.S. 17:15(A). As a prerequisite of employment and/or representative status, he/she underwent a criminal background check as required by R.S. 17:15 and R.S. 15:587.1.

(b). the superintendent or designee certifies that, according to that criminal background check, he/she has not been convicted of, or pled guilty or nolo contendre to, any of the criminal offenses set forth in R.S. 17:15 and/or R.S.15:587.1(C).

(c). the superintendent or designee certifies that he/she will notify the director of DCFS Licensing in writing if superintendent/designee becomes aware that the individual is convicted of an offense enumerated in R.S. 17:15 and/or 15:587.1(C) during the school year which nullifies the affidavit and/or letter.

2. No person who has been convicted of, or pled guilty or *nolo contendere* to any offense included in R.S. 15:587.1(C), shall be hired by or present in any capacity in the facility.

3. Criminal background clearances are not transferable between owners.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1407(D).

HISTORICAL NOTE: Promulgated by the Department of Children and Family Services, Licensing Section, LR 46:683 (May 2020), effective June 1, 2020.

§7315. Foster and Adoptive Certification

A. Home Study—Foster and Adoptive Home

1. Prior to placement of a child/youth in the home, the provider shall complete a home study of the foster/adoptive parent and their home. The home study shall be signed and dated by the person completing the home study and approved, signed, and dated by a licensed clinical social worker, licensed master social worker with 3 years of experience in adoption or foster care services, licensed professional counselor, licensed psychologist, medical psychologist, licensed psychiatrist, or licensed marriage and family therapist prior to certification of the foster/adoptive parents. All individuals who approve home studies shall be licensed in the state of Louisiana.

2. The provider shall assess information gathered regarding the family, housing, and environment to either approve or deny certification for prospective foster/adoptive parents.

3. The provider shall conduct at least three consultation visits with prospective foster/adoptive families two of which shall be conducted in the home with the third visit either in the home or child-placing agency office. The consultation visits shall be conducted on three different dates. The following interviews shall be conducted during each of the three consultation visits:

a. one joint interview with the prospective foster/adoptive parents;

b. one individual interview with each prospective foster/adoptive parent; and

c. one group interview with all individuals living in the home.

4. In addition to the interviews noted in §7315.A.3, one individual interview with each child six years old or older and capable of verbal communication living either full- or part-time in the home shall be conducted in the home.

5. In addition to the interviews noted in §7315.A.3. and 4., one individual interview with each other person living in the home either full or part-time shall be conducted in the home or the child-placing agency office.

6. The following interviews shall be conducted either in person or by telephone for the following:

a. each minor child of the prospective foster/adoptive parents not living in the home age 6 years of age or older and capable of verbal communication;

b. at least one adult child of the prospective foster/adoptive parents not living in the home; and

c. a family member not living in the home and not yet interviewed.

7. Documentation of the consultation visits shall include the date, time, method of contact, duration of each interview, those present at each interview, relationship to the prospective foster/adoptive parents, and a summary of each interview.

8. Foster/adoptive parents and adults of the household interviewed in person shall sign and date summary or home study written by the interviewer upon its completion to ensure accuracy.

9. If the prospective foster/adoptive parents have school age children, an interview or reference letter shall be obtained from at least two school personnel who are unrelated to the foster/adoptive parents that can provide an opinion of the prospective foster/adoptive parents' suitability to provide care for children in foster care or available for adoption. If the child is home schooled by someone other than the prospective foster/adoptive parents, then an interview or reference letter is required from that individual regarding their opinion of the prospective foster/adoptive parents' suitability to provide care for children in foster care or available for adoption. If provider is unable to obtain reference information due to school policy, documentation of attempts to secure information is required.

10. Throughout the home study process, the provider shall document and assess the following with regard to prospective foster/adoptive parents:

a. motivation and willingness to provide a foster/adoptive home placement for a child;

b. capacity to provide a foster/adoptive home placement for a child;

c. the number, age, and sex of children the foster/adoptive parent are willing to foster/adopt;

d. behaviors, health, or developmental conditions of the children which prospective foster/adoptive parents are willing to accept for placement;

e. prospective foster/adoptive parents feelings about their own childhoods and parents, including any history of abuse and/or neglect and their resolution of those experiences;

f. the nature and quality of prospective foster/adoptive parents respective roles and how those roles may change the present marital status or significant interpersonal relationship;

g. history of previous marriages or significant relationships and the reasons why those relationships ended;

h. prospective foster/adoptive parents religious faith, affiliation, practices, attitudes towards religion, openness to the religion of others, the role of religion in rearing children and willingness to respect and encourage a child's religious affiliation if different from their own;

i. prospective foster/adoptive parents sensitivity and personal feelings with regard to children who have been abused and/or neglected; understanding of the dynamics of child abuse and neglect and how these issues and experiences will affect their families, the children in their care, and themselves;

j. disciplinary beliefs and practices including how prospective parents were disciplined as children, their reactions to the discipline received, their ability to recognize and respect differences in children, and the need to use discipline methods that suit the individual child;

k. prospective foster/adoptive parents sensitivity and feelings regarding a child's experiences of separation from or loss of their birth families;

l. prospective foster/adoptive parents feelings about the child's parents, including the issue of abuse or neglect of the child by the child's parents or other family members; and sensitivity and reactions to the child/youth's parents;

m. prospective foster/adoptive parents sensitivity and acceptance of the child/youth's relationships with his siblings; their willingness to support the child/youth's relationships with parents, siblings, and extended family including support for contacts between the child/youth and the child/youth's family;

n. prospective foster/adoptive parent's attitude, sensitivity, tolerance, and acceptance of a child's race/ethnicity, heritage, and/or culture and willingness to respect, support, and encourage a child's connection to their culture of origin;

o. prospective foster/adoptive parents' formative experiences with foster care or adoption;

p. prospective foster/adoptive parents' plan for child care if foster/adoptive parents work outside of the home;

q. assessment of support systems shall include extended family available to foster/adoptive parents and support the family may receive from these resources and those available as caregivers during an unexpected event or crisis, such as an illness or disability of a foster/adoptive parent, loss of transportation, or the death of an immediate family member;

r. family background;

s. family traditions;

t. potential effect of foster/adoptive child on family relationships;

u. hobbies and interests of foster/adoptive parents and household members;

v. contact with extended family, integration into/involvement in community and the effect the addition of a new child will have on the family;

w. the impact the extended family's attitudes will have on the family's ability to provide foster/adoptive care;

x. plan in the event the foster/adoptive parent is unable to assist the child academically;

y. location of weapons, firearms, and ammunition and plans for safety once placement occurs;

z. attitude and capacity for handling a disruption if it occurs; and

aa. openness to adopt from a foster care situation should the opportunity present itself.

11. At least one applicant shall be functionally literate as required by Public Law 115-123.

12. For each prospective foster/adoptive household, the child-placing agency shall document, assess, and verify that the prospective foster parents have income separate from foster care reimbursement to meet the needs of the family. Social Security Disability, Social Security, and/or other sources of income such as family support, Supplemental Nutrition Assistance Program (SNAP), and Temporary Assistance for Needy Families (TANF) shall be included to determine financial stability.

13. The child-placing agency shall assess the potential negative impacts on the child/youth and family if a business open to the public adjoins the prospective foster/adoptive parent's household and assessment shall include the hours of operation, type of business, and clientele.

14. The prospective foster/adoptive parent shall be allowed the opportunity to review and obtain a copy of their home study in accordance with agency policy whether the application was approved or denied for certification. Any quotes from reference letters or other third party letters or telephone reports from agencies or professionals or information obtained from or referencing criminal background clearances shall be deleted. Identifying information regarding the child/youth's birth family shall be removed, unless a release of information is obtained from the legal guardian. Information shall be made available to the applicant within seven calendar days of the request.

B. Criminal Background Clearances—Foster and Adoptive Parents

1. Prior to certification, provider shall submit a request to DCFS for a criminal background check through the Federal Bureau of Investigation (FBI) for any applicant(s) and any member of the applicant's household aged 18 years and older in accordance with R.S. 46:51.2 for any crime enumerated under R.S. 15:587.1 and Public Law 105-89. Provider shall submit a request to DCFS for a criminal background check through the FBI within 30 calendar days of the household member, excluding children in DCFS custody, attaining their 18th birthday.

2. Effective April 1, 2019, CBCs shall be accepted for a period of three years from the date of issuance and shall be kept on file at the agency. Prior to three years from the date of issuance noted on the CBC, a new satisfactory fingerprint-based CBC shall be obtained for all household members aged 18 years and older, excluding children in DCFS custody, from DCFS through the FBI.

a. CBCs obtained prior to April 1, 2019, are acceptable for three years from date of issuance. For CBCs dated prior to April 1, 2016, the provider shall submit a new request to DCFS for a criminal background check through the FBI no later than April 1, 2020.

3. Effective April 1, 2019, CBCs shall be dated no earlier than 45 days of the applicant being certified and/or having access to children/youth or a household member moving into the home. CBCs are not transferable from one owner to another.

4. No applicant, having any supervisory or other interaction with children/youth, shall be certified by the agency until such person has submitted his or her fingerprints to DCFS for a criminal background check through the Federal Bureau of Investigation, and it has been determined that such person has not been convicted of or pled nolo contendere to a crime listed in R.S. 15:587.1(C).

5. Any foster/adoptive parent(s) who is subsequently convicted of or pleads nolo contendere to any crime listed in R.S. 15:587.1(C) after certification, shall no longer be certified to foster or adopt children/youth through the child-placing agency after such conviction/guilty plea of nolo contendere. The children placed in the home shall be immediately removed and foster/adoptive parents decertified.

C. State Central Registry Clearances—Foster and Adoptive Parents

1. An inquiry of the state central registry for members of the household 18 years of age and older, excluding children in DCFS custody shall be conducted prior to certification and annually thereafter. The SCR clearance expires one year from the date noted on the clearance. The annual SCR clearance shall be obtained prior to its' expiration. No person whose name is recorded on the state central registry with a valid (justified) finding of abuse or neglect of a child shall reside in the home.

2. If any member of the household 18 years of age or older resided in another state within the proceeding five years, the provider shall request and obtain clearance information from that state's child abuse and neglect registry prior to certifying the foster/adoptive parents. Out of state clearances shall be requested and clearance information obtained after the application is received by the child-placing agency and prior to certification and placement of a child in the home. No person whose name is recorded on any state central registry with a valid (justified) finding of abuse or neglect of a child shall reside in the home.

3. An inquiry of the state central registry shall be submitted within 30 calendar days of a household member, excluding children in DCFS custody, attaining their 18th birthday. No person who is recorded on any state's child abuse and neglect registry with a valid (justified) finding of abuse and/or neglect of a child can reside in the home.

4. Prior to any person 18 years or older moving into the home, excluding children in DCFS custody, a state central registry clearance shall be obtained. No person who is recorded on any state's child abuse and neglect registry with a valid (justified) finding of abuse and/or neglect of a child can reside in the home.

5. If an individual recorded on the state central registry is found to be living in the home, the children placed in the home shall be immediately removed and the foster/adoptive parents decertified.

6. The DCFS State Central Registry clearance form shall be dated no earlier than 45 days of the foster/adoptive parents being certified or household members over the age of 18 years being present in the home. Out-of-state clearance forms shall be dated no earlier than 120 days of foster/adoptive parents being certified. However, for household members over the age of 18 years who continue to reside outside of the state of Louisiana but their official domicile is a certified foster/adoptive home in the state of Louisiana, their clearances shall be dated no earlier than 45 days prior to certifying the foster/adoptive parents.

7. If foster/adoptive parent receives a valid finding after receiving state central registry clearance form from child welfare indicating that he/she was not listed on the state central registry and the child-placing agency is notified prior to the individual's appeal rights being exhausted, licensing shall be notified within 24 hours or no later than the next business day, whichever is shorter. The child-placing agency shall follow the recommendations of the department regarding any DCFS children in the care of the foster/adoptive parents.

8. State central registry clearances are not transferable from one owner to another.

D. Foster and Adoptive Parent Responsibilities

1. Foster/adoptive parents shall recognize and encourage acceptable behavior.

2. Foster/adoptive parents shall teach by example and use fair and consistent rules with logical consequences.

3. Foster/adoptive parents shall use methods of discipline that are relevant to the behavior.

4. Foster/adoptive parents shall supervise with understanding, firmness, and discipline.

5. Foster/adoptive parents shall give clear directions and provide guidance consistent with the child's level of understanding.

6. Foster/adoptive parents shall redirect the child by stating alternatives when behavior is unacceptable.

7. Foster/adoptive parents shall express themselves so the child understands that his/her feelings are acceptable and certain actions or behavior are not.

8. Foster/adoptive parents shall help the child learn what conduct is acceptable and appropriate in various situations.

9. Foster/adoptive parents shall encourage the child to control his/her own behavior, cooperate with others and solve problems by talking.

10. Foster/adoptive parents shall communicate with the child by showing affection and concern.

11. Foster/adoptive parents shall encourage the child to consider others' feelings.

12. Neither foster nor adoptive parent(s) shall care for unrelated adults on a commercial basis nor accept children into the home for day care at the same time they are certified to provide foster care.

13. Foster/adoptive parents shall obtain written approval from the legal guardian prior to allowing a child to be away from the foster or adoptive home for more than three consecutive days.

14. Foster/adoptive parents shall obtain medical care for a child/youth as needed.

15. Foster/adoptive parents shall notify the child-placing agency prior to a change in address.

16. Foster/adoptive parents shall notify the child-placing agency of a significant change in circumstances in the home which effects the foster/adoptive child including, but not limited to a job loss of a caretaker, serious injury or death of a caretaker, or a change of persons living in the home.

17. Foster/Adoptive parents shall provide structure and daily activities designed to promote the individual, social, intellectual, spiritual, and emotional development of the child/youth in the home.

18. Foster/Adoptive parents shall assist the child/youth in developing skills and performing tasks which will promote independence and the ability to care for themselves.

19. Foster/adoptive children may assume age appropriate household responsibilities commensurate with those expected of foster/adoptive parent's own children.

20. Foster/adoptive parents shall teach money management, budgeting, and making responsible purchases as age appropriate.

21. Foster/adoptive parents shall teach/promote personal hygiene and grooming skills appropriate to the child's sex, age, and culture through daily monitoring.

22. Prior to certification, the foster/adoptive parent(s) shall receive a list of the responsibilities noted in 7315.D.1-21. There shall be documentation signed and dated by the foster/adoptive parent acknowledging receipt of the list of responsibilities by the foster/adoptive parent in the foster/adoptive parent record.

E. Foster/Adoptive Parent(s) Record

1. The provider shall maintain a record for each foster/adoptive parent, which shall contain the following information and shall be updated as changes occur:

a. household composition: the full legal names of all persons residing in the home, birth dates, relationship to one another, name preferred to be called, level of education, and marital status;

b. copy of home study;

c. copy of a valid, current driver's license for all household members providing transportation for children in foster care and through adoption finalization (prior to certification, prior to placement of a child/youth in the home, and throughout the time a child/youth is placed in the home);

d. proof of current liability insurance for all vehicles used to transport foster children or children prior to finalization owned or leased by the foster family (prior to certification, prior to placement of a child/youth in the home, and throughout the time a child/youth is placed in the home);

e. expiration date of the inspection sticker for all vehicles used to transport foster children or children prior to finalization (prior to certification, prior to placement of a child/youth in the home, and throughout the time a child/youth is placed in the home);

f. current copy of vehicle registration for all vehicles used to transport children/youth (prior to certification, prior to placement of a child/youth in the home, and throughout the time a child/youth is placed in the home);

g. criminal record check reports as required in §7315.B for all household members 18 years of age and older, excluding youth in DCFS custody;

h. state central registry clearances as required in §7315.C for all household members 18 years of age and older, excluding youth in DCFS custody;

i. history of prior applications to foster and/or adopt and the reason for withdrawals or closures. If a prospective foster parent was previously certified as a foster/adoptive parent by another provider or DCFS and the prospective foster/adoptive parent's home was closed, verification of the closure and a statement to indicate whether the closure was at the request of the prospective foster/adoptive parent or the provider shall be obtained by the provider from the other agency;

j. contract/placement agreement between the child-placing agency and the foster/adoptive parent;

k. documentation of current immunizations from a licensed veterinarian for all pets in the household;

l. documentation of marital status of prospective foster/adoptive parent if legally married, divorced or widowed;

m. for a prospective foster/adoptive parent who is separated and whose spouse no longer resides in the home, a notarized statement from the prospective foster/adoptive parent indicating such and attesting that the child-placing agency will be notified in writing prior to the spouse moving back into the home is required;

n. copy of a current federal or state issued photo identification card;

o. documentation that the prospective foster parent is at least 21 years of age or if a relative certified by DCFS child welfare, that the relative meets the age requirements set forth in DCFS child welfare policy;

p. documentation of quarterly contact between the provider and prospective foster parent noting foster parents continued interest and availability to foster from time of application until placement.

2. Proof of the prospective foster/adoptive family's income for the past 60 days shall be included in the record.

3. Documentation of itemized monthly expenses to include the following shall be maintained in the foster/adoptive parent's record:

a. mortgage/rent;

b. utility cost;

c. transportation costs;

d. food costs;

e. medical expenses;

f. clothing allowance;

g. insurance cost;

h. credit card payments;

i. loan payments;

j. child support obligations;

k. alimony obligations;

l. pet costs;

m. entertainment/miscellaneous costs; and

n. other household expenses.

4. A statement of health dated within six months prior to certification and updated every three years for each adult member of the prospective foster/adoptive parent's household, excluding youth in DCFS custody, signed by a licensed physician or licensed health care professional verifying that the individual:

a. has no past nor present physical or mental illness or condition that would present a health and safety risk to a child placed in the prospective foster parent's home; and

b. is free of communicable or infectious disease or if not free of communicable or infectious disease, there shall be a signed statement by the licensed treating physician or licensed treating health care professional verifying the following:

i. the individual is under the care of a licensed physician or licensed health care professional;

ii. the present condition does not present a health or safety risk to a child placed in the prospective foster/adoptive parent's home; and

iii. foster/adoptive parents are physically able to provide necessary care for a child.

5. Within 30 calendar days of a household member attaining their 18th birthday, excluding children in DCFS custody, a statement of health as noted in §7315.E.4 shall be obtained.

F. Physical Plant Requirements for Foster and Adoptive Homes

1. The home shall be in good repair and the exterior around the home shall be free from objects, materials, and conditions which constitute a danger to the children served.

2. The home shall have a safe outdoor play area which children may use either on the property or within a reasonable distance of the property. If there is no outdoor play area within a reasonable distance, foster parents shall identify an alternative location for outdoor play.

3. Open cisterns, wells, ditches, fish ponds, and other bodies of water shall be made inaccessible to children.

4. Swimming and wading pools shall be locked and inaccessible to children except when under adult supervision.

5. In accordance with Public Law 115-123, swimming pools shall have a barrier of at least four feet high.

6. In accordance with Public Law 115-123, swimming pools shall be equipped with a life saving device, such as a ring buoy.

7. In accordance with Public Law 115-123, if the swimming or wading pool is not emptied after each use, the pool shall have a working pump and filtering system.

8. In accordance with Public Law 115-123, hot tubs and spas shall have safety covers that are locked when not in use.

9. The home shall have equipment for the safe preparation, storage, serving of, and cleaning after meals.

10. All plumbing, cooking and refrigeration equipment shall be in working order.

11. All areas of the home shall be maintained in sanitary condition.

12. The home shall have a dining area furnished so that all members of the household may eat together.

13. The home shall have living or family room space furnished and accessible to all members of the family.

14. The home shall have a minimum of one flush toilet, one sink, and one bath or shower with hot and cold water.

15. Bathroom shall be equipped with toilet paper, towels, soap, and other items required for personal hygiene and grooming.

16. The home shall be free of security/video cameras in the bathroom to allow the child/youth privacy.

G. Bedroom Requirements—Foster and Adoptive

1. Each child shall have his/her own bed. The mattress shall at a minimum be a standard twin size. The mattress shall be clean, comfortable, and non-toxic. Upon placement each child should be provided with a new mattress or new water proof mattress cover.

2. Each child shall have a chest, dresser, or other adequate storage space for the child's clothing and personal belongings in the child's bedroom and a designated space for hanging up clothes in or near the bedroom occupied by the child.

3. Each bedroom shall have adequate space to be used by children for daily activities.

4. Infants shall be placed in an approved crib for sleeping per current industry safety standards. The crib shall meet U.S. Consumer Product Safety Commission (CPSC) requirements for full-size cribs as defined in 16 Code of Federal Regulations (CFR) 1219, or non full-size cribs as defined in 16 CFR 1220. A crib meets the requirements of this section if:

a. the crib has a tracking label which notes that the crib was manufactured on or after June 28, 2011; or

b. the foster/adoptive parent has a registration card which accompanied the crib noting that the crib was manufactured on or after June 28, 2011; or

c. the foster/adoptive parent has a children's product certificate (CPC) certifying the crib meets the requirements for full-size cribs as defined in 16 Code of Federal Regulations (CFR) 1219, or non full-size cribs as defined in 16 CFR 1220.

5. The crib shall be equipped with a firm mattress and well fitting sheets. Mattresses shall be of standard size so that the mattress fits the crib frame without gaps of more than one-half inch. Homemade mattresses are prohibited.

6. The minimum height from the top of the mattress to the top of the crib rail shall be 20 inches at the highest point.

7. The mattress support system shall not be easily dislodged from any point of the crib by an upward force from underneath the crib.

8. Cribs shall be free of toys and other soft bedding, including blankets, comforters, bumper pads, pillows, stuffed animals, and wedges when the infant is in the crib.

9. An infant shall be placed on his/her back for sleeping. Written authorization from the infant's physician is required for any other sleeping position.

10. Children/youth shall be allowed to personalize an area within the bedroom .

11. Children/youth shall be provided bed linens, blankets, and pillows for individual use.

12. The home shall be free of security/video cameras in the bedroom of a child over the age of 5 years. A security/video camera may be used in a child's bedroom for a child over the age of 5 years with developmental, medical, or behavioral needs if documented in the child's service plan.

13. Foster/adoptive parent(s) shall permit no more than four children/youth to a bedroom.

14. Children six years of age and older shall not share a bedroom with a person of the opposite sex.

15. Children with the exception of infants shall not share a bedroom with adults. Exceptions may be granted

as noted below; however, a child shall not share a bed with an adult under any circumstances.

a. An exception may be granted when a child needs close supervision due to illness or medical condition and approval is received from the child-placing agency.

i. Documentation of the exception from the child-placing agency shall be in the foster/adoptive parent(s) record. Documentation shall include the following:

(a). name of child sharing the room with an adult for which approval is granted,

(b). name of adult(s) sharing the room with the child for which approval is granted,

(c). description of illness or medical condition warranting the exception being granted,

(d). timeframe for which approval is granted,

(e). signature and date of child-placing agency staff granting approval, and

(f). conditions, if any for which approval is granted.

b. An exception may be granted in accordance with DCFS Child Welfare policy if the adult is a young adult in the DCFS Extended Foster Care Program and was already sharing a room with the child upon the youth reaching adulthood. No young adult in the DCFS Extended Foster Care Program shall be newly placed in a home whereby they would be required to share a bedroom with a child.

i. Documentation of the exception from Child Welfare shall be on file prior to the young adult in the DCFS Extended Foster Care Program attaining their 18th birthday. Documentation shall include the following:

(a). name of the CPA, if applicable for which approval is granted,

(b). name of the foster/adoptive home for which approval is granted,

(c). names and birth dates of children sharing the room with the young adult in the DCFS Extended Foster Care Program for which approval is granted,

(d). name and birth date of young adult in the DCFS Extended Foster Care Program sharing a room with the children noted for which approval is granted,

(e). signature and date of child welfare state office staff granting approval, and

(f). conditions, if any for which approval is granted.

H. Safety Requirements—Foster and Adoptive Homes

1. The home shall have a working heating and air conditioning system.

2. The home shall have a telephone capable of outgoing calls that is accessible at all times to children/youth. In accordance with Public Law 115-123, a comprehensive list of emergency telephone numbers to include the number for poison control shall be posted next to the telephone if the phone is stationary or in a common area used by children/youth for portable or cell phones.

3. There shall be safe storage for medication, poisons, and other harmful materials in the home.

4. Foster/adoptive parents shall take measures to keep the home and premises free of rodents and insects.

5. Foster/adoptive parents shall restrict access to potentially dangerous animals.

6. Foster/adoptive parents shall store dangerous weapons, firearms, air guns, BB guns, hunting slingshots, and other projectile weapons in a locked area inaccessible to children, in accordance with Public Law 115-123. Ammunition shall be stored in a separate locked area.

7. First aid supplies shall be accessible in the home.

I. Fire Safety Requirements—Foster and Adoptive Homes

1. The home shall be free from fire hazards, such as faulty electric cords and appliances, or fireplaces and chimneys that are not maintained.

2. The home shall be equipped with operating smoke detectors in each hallway, kitchen, and child's bedroom.

3. The home shall be equipped with an operating carbon monoxide detector in each child's bedroom.

4. A portable chemical fire extinguisher shall be in the cooking area of the home.

5. Foster/adoptive parents shall establish an emergency evacuation plan and shall practice it at least quarterly ensuring children understand the procedures. Documentation shall consist of a quarterly note signed and dated by provider in the foster/adoptive parent record indicating that the emergency evacuation plan was discussed and practiced quarterly as required.

6. Combustible items shall be stored away from heat sources.

7. Home heating units shall be shielded to prevent accidental contact.

8. Foster/adoptive parents shall ensure solid fuel heating stoves, systems, and fireplaces are properly installed, maintained, and operated.

J. Sanitation and Health Requirements—Foster and Adoptive Homes

1. The home shall have clean drinking water. If the water is not from a city water supply, the foster/adoptive parent(s) shall provide documentation that the water has been tested and approved by the local health authority.

2. All plumbing in the home shall be in working order.

3. The home shall have hot water. Hot water accessible to children shall not exceed 120 degrees Fahrenheit at the outlet.

K. Food and Nutrition Requirements—Foster and Adoptive Homes

1. The milk served to children shall be Grade A and pasteurized.

2. Foster/adoptive parents shall provide nutritionally balanced meals daily. Children/youth shall be provided a snack between meals and prior to bedtime.

3. As recommended by a licensed physician or in accordance with the child/youth's case or service plan, foster/adoptive parent shall provide for any special dietary needs of the child placed in the home.

4. When applicable, the dietary laws of the child/youth's religion shall be observed for the food provided to the child/youth.

L. Clothing and Personal Belongings Requirements—Foster and Adoptive Homes

1. Foster/adoptive parents shall provide each child/youth with their own clean, well fitting, seasonal clothing appropriate to age, sex, individual expression, and comparable to other household members and to the community standards.

2. A child/youth shall not be required to share clothing.

3. Clothing and personal belongings shall be sent with the child/youth if the child/youth leaves the care of the family.

4. Only shoes in good repair and condition shall be provided to the child/youth.

5. Children/youth shall be allowed to choose their own clothing whenever possible.

6. Children/youth shall be allowed to bring, possess, and acquire personal belongings subject only to reasonable household rules.

7. Each child/youth shall be provided with clean towels, washcloths, his/her own toothbrush, his/her own comb or hair brush, personal hygiene items, and other toiletry items suitable to the child/youth's age and sex.

M. Money Requirements—Foster and Adoptive Homes

1. In addition to the mandated allowance, children/youth may earn additional money through paid work, employment, or money paid directly to the child/youth from other sources as appropriate to their age and ability.

2. A child/youth's money from any source shall be his/her own and may only be subject to restrictions in accordance with his/her service or case plan.

3. Children/youth shall not be required to pay for any mandated foster/adoptive home service.

4. Children/youth shall not be required to pay for basic personal hygiene or toiletry items.

N. Transportation—Foster Care, Adoption, Transitional Placing

1. The foster/adoptive parent(s) shall have access to reliable transportation to transport the child/youth to school, recreational activities, medical care, and community facilities.

2. The provider shall assist children/youth and families in arranging transportation necessary for implementing the child/youth's service and case plans.

3. The provider shall have a means of transportation for children/youth which are equipped with appropriate safety restraints in accordance with state laws and standards. No child/youth shall be transported in any vehicle unless seat belts and age appropriate child restraints are utilized in accordance with state law and standards.

4. The provider and staff shall maintain and operate vehicles used for transporting children/youth in safe condition and in conformity with appropriate motor vehicle laws and standards.

5. The provider shall have documentation of current liability insurance for all child-placing agency and staff vehicles used for transporting children/youth. The provider shall maintain in full force at all times current commercial liability insurance for the operation of child-placing agency vehicles. Documentation shall consist of the insurance policy or current binder which includes the name of the agency, the name of the insurance company, policy number, period of coverage, and explanation of the coverage. If a staff person provides transportation for children/youth in the course and scope of his/her employment, the provider shall maintain a copy of staff's current vehicle insurance.

6. All child-placing agency and staff vehicles used to transport children/youth shall have a current safety inspection sticker. Documentation confirming visual inspection of safety inspection sticker shall include the signature and date of the staff that viewed the inspection sticker, expiration date of sticker, and vehicle's make, model, and license plate number.

7. All aspects of the vehicle used to transport foster/adoptive children/youth shall be maintained in good repair including, but not limited to seats, doors, lights, and tires.

8. All child-placing agency and staff vehicles used to transport children/youth shall be currently registered. The provider shall maintain a copy of the current registration for all foster/adoptive parents, staff, and child-placing agency vehicles used to transport children/youth.

O. Child-placing agency Responsibilities—Foster Care, Adoption, Transitional Placing

1. The provider shall ensure that the child/youth has clothing for the child/youth's exclusive use in quality and

variety to that worn by other children/youth with whom the child/youth may associate.

2. The provider shall be responsible for monitoring the child/youth's school progress and attendance.

3. The provider shall secure psychological and psychiatric services, vocational counseling, or other services as indicated by the child/youth's service plan or case plan.

4. When requested by the legal guardian, the child-placing agency shall have a representative present at all judicial, educational, or administrative hearings that address the status of a child/youth in care of the provider. The provider shall ensure that the child/youth is given an opportunity to be present at such hearings, unless prohibited by the child/youth's legal guardian or by his/her case plan.

P. Training the Foster and Adoptive Parent(s)

1. The foster/adoptive parent(s) shall participate in training provided or approved by the child-placing agency to develop and enhance their parenting skills.

2. The child-placing agency shall provide orientation to prospective foster/adoptive parents prior to certification, to include the following:

a. mission and program description;

b. realities of children available for adoption;

c. long term impacts of prenatal substance abuse exposure;

d. impact of the lack of pre-natal care on infants/children available for placement;

e. impact of stress on pre-natal environments;

f. in person, by video, or written account regarding their personal experiences from a certified foster/adoptive parent that has fostered or adopted a child;

g. the stages of grief to include identification of behaviors linked to each stage;

h. long-term effect of separation and loss on a child;

i. permanency planning for a child, including independent living services;

j. the importance of attachment on a child's growth and development to include bonding issues;

k. development and maintenance of a healthy attachment between the child and foster/adoptive parent;

l. cultural awareness;

m. reasons children enter care;

n. the placement decision process;

o. changes that may occur in the home if a placement occurs;

p. family adjustment;

q. identity issues;

r. trauma;

s. types of abuse and neglect (physical, sexual, emotional);

t. developmental milestones;

u. prohibited practices;

v. rights and responsibilities of foster/adoptive parents;

w. placement or adoption disruption;

x. behavior management; and

y. substance abuse prevention and warning signs.

3. Documentation of completion of orientation training shall include training topics, foster/adoptive parent's signature, and date.

4. Prior to certification, the child-placing agency shall discuss options with adoptive parents on how to discuss adoption with the child. Documentation shall include the adoptive parent's signature and date.

5. Once certified, a minimum of 15 hours of child-placing agency approved training shall be received annually by the foster parents prior to certification expiration. The hours may be shared among the adult members of the family, however, each adult shall receive a minimum of five hours. If adult members of the household attend trainings together, each person shall receive individual credit for their attendance. It is not required for adult members of the household to attend trainings on different topics. All hours received by each individual adult member of the household will account for the total number of hours received per household. Documentation of training completed shall include certificate of participation or sign in log specifying foster parent's name, training topic, date, and number of hours completed. Foster parents certified by DCFS shall follow the training requirement timeframe as noted in DCFS child welfare policy.

6. Prior to certification and updated annually, documentation of reasonable and prudent parent training for all foster parents shall be maintained. Documentation shall include the training topics, foster parent signature, and date. Reasonable and prudent parent training or training materials, as developed or approved by DCFS, shall include, but is not limited to the following topic areas:

a. age or developmentally appropriate activities or items;

b. reasonable and prudent parent standard;

c. role of the foster/adoptive parents and of DCFS; and

d. allowing for normalcy for the child while respecting the parent's residual rights.

7. Prior to certification, all prospective foster/adoptive parents shall receive certification in infant/child and adult

cardiopulmonary resuscitation (CPR) and first aid. This training may be applied toward meeting the annual required training hours as noted in §7315.P.5. DCFS certified homes shall follow the CPR requirements as noted in DCFS child welfare policy.

8. Prior to certification, all prospective foster/adoptive parents shall complete the DCFS "mandated reporter training" available at dcfs.la.gov. DCFS certified foster/adoptive parents shall meet the requirements as set forth in DCFS policy. Documentation of training shall be the certificate obtained upon completion of the training. This training may be applied toward meeting the annual required training hours for foster parents as noted in §7315.P.5.

9. Prior to certification all prospective foster/adoptive parents shall complete the "Reducing the Risk of SIDS in Early Education and Child Care" training available at www.pedialink.org or the Safe Sleep, Reducing the Risk of SIDS training available through DCFS at www.moodle.lcwta.org. DCFS certified foster/adoptive parents shall meet the requirements as set forth in DCFS policy. Documentation of training shall be the certificate obtained upon completion of the training. This training may be applied toward meeting the annual required training hours for foster parents as noted in §7315.P.5.

10. Effective April 1, 2019, currently certified foster/adoptive parents shall complete the DCFS "mandated reporter training" available at dcfs.la.gov within 45 days and annually thereafter. DCFS certified foster/adoptive parents shall meet the requirements as set forth in DCFS policy. Documentation of training shall be the certificate obtained upon completion of the training. This training may be applied toward meeting the annual required training hours for foster parents as noted in §7315.P.5.

11. Effective April 1, 2019, currently certified foster/adoptive parents shall complete the "Reducing the Risk of SIDS in Early Education and Child Care" training available at www.pedialink.org or the Safe Sleep, Reducing the Risk of SIDS training available through DCFS at www.moodle.lcwta.org within 45 days and annually thereafter. DCFS certified foster/adoptive parents shall meet the requirements as set forth in DCFS policy. Documentation of training shall be the certificate obtained upon completion of the training. This training may be applied toward meeting the annual required training hours for foster parents as noted in §7315.P.5.

12. Effective April 1, 2019, currently certified foster/adoptive parents shall receive certification in infant/child and adult cardiopulmonary resuscitation (CPR) and first aid within 60 days. CPR and first aid shall be updated prior to the expiration of the certification as indicated by the American Red Cross, American Heart Association, or equivalent organization. This training may be applied toward meeting the annual required training hours for foster parents as noted in §7315.P.5. DCFS certified homes shall follow the CPR requirements as noted in DCFS child welfare policy.

Q. Support Systems—Foster and Adoptive

1. Foster/adoptive parent(s) shall have or develop a support system for supervising and providing care to allow foster/adoptive parent(s) opportunities for occasional breaks from caring for the child(ren).

2. Foster/adoptive parent(s) shall have at least one adult (age 18 or older) responsible for the supervision of children or available at all times within close proximity of the home when a foster/adoptive parent is not present. The appointed adult caregiver shall be available by phone at all times.

R. Denial of a Foster or Adoptive Parent Application

1. The child-placing agency shall initiate the home study within 30 calendar days of receipt of the completed application or notify the applicant in writing within 35 calendar days of receipt of the completed application of the reason the home study will not be conducted. Documentation of notification shall be maintained.

2. The applicant shall be notified in person or by telephone within 30 calendar days of completion of the home study, if the request to become a foster/adoptive parent is not recommended. The provider shall enter a dispositional summary in the applicant(s) case record clearly indicating the date of denial, the reason for denial of the application for certification, the manner in which the decision was presented to the family, and applicant's reaction to the decision within 10 calendar days of notification.

3. If the applicant withdraws the request to become a foster/adoptive parent, the child-placing agency shall send written confirmation to the applicant acknowledging the withdrawal within seven calendar days of receipt of withdrawal request. Documentation of notification shall be maintained.

S. Service Plan for Children placed with Foster and Adoptive Parents

1. Within 15 calendar days of a child's placement, the provider shall develop a service plan based upon the individual needs of the child/youth.

2. A child/youth has the right to be involved in assessment and service planning as appropriate to his age, development, and ability.

3. Foster/adoptive parents shall support and follow the service plan providing input to the child-placing agency of recommended changes or updates.

4. Foster/adoptive parents shall cooperate with the support and implementation of the permanency goal established for a child/youth placed in their home.

5. The service plan meeting shall include the foster parent, child/youth if developmentally appropriate, and the legal guardian. Documentation shall include the date of service plan meeting, names of individuals invited, and signatures of attendees. If the legal guardian is unable to attend, provider shall obtain legal guardian's signature or document that the service plan was submitted to the legal guardian within seven calendar days of the meeting.

6. The provider shall review the child/youth's service plan on a quarterly basis or more frequently as the child/youth's needs or circumstances dictate. Documentation shall include the signature of reviewer and date of each child/youth's service plan review.

T. Lifebook—Foster Care and Adoption

1. Every child/youth placed in foster care or for adoption shall have a lifebook. For children who are developmentally unable to participate in the creation and updating of their own lifebook, foster/adoptive parents shall create and update for the child/youth.

2. Effective April 1, 2019, provider shall ensure that each child/youth who is developmentally able is assisted at least monthly in creating and updating their lifebook.

3. Lifebooks shall be the property of children/youth and shall remain with the child/youth when placement changes or upon discharge.

4. Lifebooks shall be available for review by DCFS during visits to the foster/adoptive home.

U. Decertification of a Foster or Adoptive Parent

1. Foster/adoptive parent shall be decertified if:

a. it is determined by the child-placing agency that the family no longer meets the requirements;

b. a situation arises that is not in the best interest of children;

c. abuse and/or neglect by the foster/adoptive parent is substantiated;

d. abuse and/or neglect by a member of the home is substantiated, other than the foster/adoptive parent if the individual remains in the home;

e. foster/adoptive parent develops a serious physical or mental illness that may impair the ability to provide adequate care of a child/youth; or

f. the foster/adoptive parent requests to withdraw from participation as a foster/adoptive parent.

2. If the home is to be decertified, the provider shall make adequate preparation and arrangements for the care, custody, and control of any children placed in the home.

3. The provider shall confirm, in a written notice to the foster/adoptive parent, the decision to decertify the home. The notice shall be delivered to the foster/adoptive parent within 10 calendar days of the decertification decision. The written notice for decertification shall include the name of the foster/adoptive parent, the reason for decertification, and the effective date. Documentation of notice shall be maintained.

V. Reapplication for Certification for Foster and Adoptive Parents

1. To reapply, a former foster/adoptive parent shall follow all requirements noted herein that are in effect at the time of re-application.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1407(D).

HISTORICAL NOTE: Promulgated by the Department of Children and Family Services, Licensing Section, LR 45:377 (March 2019), effective April 1, 2019, LR 46:686 (May 2020), effective June 1, 2020, LR 47:351 (March 2021), effective April 1, 2021, repromulgated LR 47:442 (April 2021).

§7317. Interstate Compact on the Placement of Children (ICPC)

A. Provider shall have documentation of approval from the administrator of the Louisiana Interstate Compact on the Placement of Children (ICPC) prior to sending a child to another state for foster/adoptive services. No placement shall occur without prior approval from the compact administrator in Louisiana.

B. Provider shall have documentation of approval from the administrator of the Louisiana ICPC prior to receiving a child from another state for foster/adoptive services. No placement shall occur without prior approval from the compact administrator in Louisiana.

C. A child adopted through the court of jurisdiction in a foreign country or entering Louisiana directly from the foreign country for purposes of adoption are not subject to the Interstate Compact on the Placement of Children.

D. Upon placement of a child in Louisiana, provider shall follow all child-placing agency standards.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1407(D).

HISTORICAL NOTE: Promulgated by the Department of Children and Family Services, Licensing Section, LR 45:385 (March 2019), effective April 1, 2019.

§7319. Foster Care Services

A. Types of Foster Care Services

1. The provider may offer any or all of the following types of services in an approved foster home:

a. foster care services;

b. therapeutic foster care services; and/or

c. respite care services.

2. Number of Children—Foster Home

a. At any given time, a foster home shall have no more than six dependents including foster children, dependent children, dependent adults, and children for whom respite is provided with the exception of a sibling group, who may remain together.

b. Prior to exceeding six dependents in a foster home written approval from the child welfare state office shall be obtained.

c. Documentation from child welfare state office shall include:

i. name of the CPA for which approval is granted;

ii. name of foster parent for which approval is granted;

iii. names and birth dates of all dependents in the home at the time approval is granted;

iv. name and birth date of child/youth for which approval is granted;

v. signature and date of child welfare state office staff granting approval which shall be prior to the placement date; and

vi. conditions if any, for which approval is granted.

3. No more than two children under two years of age shall be placed in the same foster home, with the exception of a sibling group.

a. Prior to exceeding two children under two years of age in the same foster home at the same time, with the exception of a sibling group; written approval from child welfare state office shall be obtained.

b. Documentation from the child welfare state office shall include:

i. name of the CPA for which approval is granted;

ii. name of foster parent for which approval is granted;

iii. names and birth dates of all dependents at the time approval is granted;

iv. name and birth date of child/youth for which approval is granted;

v. signature and date of child welfare state office placement services section staff granting approval which shall be prior to the placement date; and

vi. conditions, if any, for which the approval is granted.

B. Additional Requirements for Therapeutic Foster Care (TFC) Services.

1. The TFC parent who is the primary care giver shall have documentation of a high school diploma or equivalent.

2. The TFC foster home parents shall complete a minimum of 24 hours of annual training in addition to the 15 hours of training required under §7315.P.5. For two-parent therapeutic foster care homes, the 39 total training hours as required in this section may be divided between the two TFC parents, as long as the primary caretaker receives a minimum of 16 hours of the 39 required hours and the other parent receives a minimum of eight hours of the 39 required hours. Documentation shall include a certificate or sign in sheet with the training topic, number of hours, trainer's name and signature of individual attending.

a. Fourteen hours of the twenty-four hours of annual training may be met through professional therapeutic consultation or medical training aimed to assist in parenting a child placed or being placed.

3. Approval from the child welfare state office staff shall be obtained and documented prior to 1) exceeding four dependents, including foster children/youth, dependent children, dependent adults, and children for whom respite is provided in a TFC home and/or 2) exceeding two TFC children/youth in a home, unless the additional child/youth is a sibling of one of the TFC children.

4. Documentation from the child welfare state office shall include:

a. name of the CPA for which approval is granted;

b. name of foster parent for which approval is granted;

c. names and birth dates of all dependents in the home at the time approval is granted which identifies children/youth receiving TFC services;

d. name and birth date of child/youth for which approval is granted;

e. signature of child welfare state office staff granting approval which shall be prior to the placement date; and

f. conditions, if any for which approval is granted.

C. Placement of Child in Foster Home

1. The provider shall place a child/youth only with certified foster parents in an approved home.

2. The provider shall select a foster home for a child/youth based upon the individual needs of the child, to include the child's assessment, the child's needs, and measures required to support the safety of the child. The placement decision including the child-placing agency staff's signature and date shall be documented in the child's file.

3. The type of placement for each child/youth shall be determined by amount of supervision required, support services needed, and training received by the foster parent to assist in meeting the needs of the child.

4. The provider shall have a written child specific placement agreement with the foster parent for each child/youth placed indicating at a minimum the responsibilities of the child-placing agency and foster parent to include:

a. rights and responsibilities of the child-placing agency and foster parent;

b. agreement by the family to work in partnership with the child-placing agency to provide foster care services to the child/youth;

c. agreement that the foster parent is able and willing to communicate with the child in the child's own language as required by Public Law 115-123;

d. willingness and ability of the foster parent to communicate with the child-placing agency, health care and other service providers on behalf of the child in accordance with Public Law 115-123;

e. confidentiality of all personal information about the child and the child's family confidential;

f. receipt of a daily board rate paid monthly by the child-placing agency;

g. agreement to cooperate with the agency/provider when it is necessary to remove a child from the foster home for any reason;

h. reporting to the child-placing agency all changes in circumstances affecting the child/youth or the foster care placement;

i. obtaining the consent of the CPA prior to taking the child/youth out-of-state or authorizing any special medical care or treatment for the child;

j. promotion of healthy foster parent-child adjustment and bonding by the CPA by providing support services to the foster parents;

k. prohibited use of any illegal substances, alcohol abuse including the consumption of alcohol in excess amounts, or legal prescription or nonprescription drug abuse via consumption of excess amounts or contraindicated usage as required by Public Law 115-123;

l. foster parent(s) nor guests shall smoke in the presence of a child in foster care, in the family home or in any vehicle used to transport a child as required by Public Law 115-123;

m. as required by Public Law 115-123, maintaining the swimming pool in a safe condition, including testing and maintaining chlorine and pH levels as required by the manufacturer's specifications;

n. as required by Public Law 115-123, locking all entry points to the swimming pool, when not in use;

o. as required by Public Law 115-123, removing or secure steps or ladders to the swimming pool, if applicable when the pool is not in use; and

p. as required by Public Law 115-123, no transporting of weapons in any vehicle in which a foster child is riding unless the weapons are made inoperable and inaccessible.

5. The child specific placement agreement shall be signed and dated by a child-placing agency representative and foster parent prior to or at the time of placement.

6. The child-placing agency shall provide foster parent with written instructions for contacting agency personnel to include names and telephone numbers prior to or at the time of placement.

D. Supervision for Foster and TFC Homes

1. Provider shall conduct an initial in home face-to-face supervisory visit with the child and one foster parent on the day of the child's placement or the following calendar day. A subsequent face-to-face in home supervisory visit shall be conducted with the foster parent and child within 10 calendar days of the child's placement.

2. Provider shall have at least weekly telephone contact with one of the foster parents.

3. Provider shall conduct supervisory visits with one foster parent at least twice monthly with at least one visit occurring in the foster home. Supervisory visits with foster parents of infants shall be conducted while the infant is present in the home.

4. Provider shall conduct a private supervisory visit with the foster child/youth age one year and above, a minimum of twice monthly with at least a segment of one visit occurring in the foster home.

5. Documentation of the contacts noted in §7319.D.1-4 shall include:

a. date and time of visit or phone contact;

b. individuals present;

c. location of visit;

d. duration of visit;

e. assessment of adjustment of the child and foster parent;

f. assessment of attachment and bonding;

g. assessment of health of child;

h. changes since last contact;

i. summary of visit or phone contact; and

j. signature of person conducting visit or phone contact.

6. Provider shall supervise visitation between the child and birth family if required in the case or service plan.

7. Provider shall assist with transporting the child/youth to appointments if the foster parent is unable.

8. The child-placing agency shall provide 24 hour crisis intervention to the foster family such as defusing potentially dangerous situations between children and/or towards foster parent when requested or a need detected.

E. Foster Child's Record

1. Information received verbally from the referring agency shall be documented by the child-placing agency in the child/youth's record. Documentation shall include the name of the referring agency representative from whom the information was received, date, summary of information, and the name of the child-placing agency representative to which the information was provided. Information received in writing from the referring agency shall be filed in the child/youth's record.

2. Prior to placement, the provider shall obtain as much information as possible from the referring agency about the child/youth and the child/youth's family in order to find the most suitable home for a child. Provider shall document in the child/youth's record a summary containing justification for placement decision to include the provider's assessment of the strengths and needs of the foster family.

3. Prior to placement and as information is made available to the child-placing agency, the child-placing agency shall provide information to a foster parent regarding the behavior and development of the child.

4. Prior to placement and as information is made available to the child-placing agency, the provider shall inform the foster parent of inappropriate sexual acts or sexual behavior of the child/youth known to the provider and any behaviors of the child/youth that indicate a safety risk for the placement.

5. Prior to placement, the provider shall be responsible for obtaining a placement agreement between the child-placing agency and referring agency. This agreement shall be filed in the child/youth's record.

6. The provider shall obtain and document the following information within 30 calendar days of placement:

a. child/youth's name, previous home address, sex, race, nationality, birth date, birth place, religious affiliation, and Social Security number;

b. the current name, address, telephone number and marital status of the biological parents of the child;

c. the name, address, and telephone number of siblings and if in foster care, the name and contact information of their foster parents and caseworkers; and

d. the name, address, and telephone number of siblings and significant relatives or others considered in the case plan.

7. The provider shall maintain the following information in the foster child/youth's record and all information shall be continuously updated:

a. custody order within 30 calendar days of placement;

b. copy of birth certificate or written request for birth certificate to child welfare within seven calendar days of placement;

c. medical, psychological, and psychiatric history and reports;

d. annual physicals and examinations for the child/youth;

e. the dates of contact with the child/youth to include but not limited to providers, guardian, biological family, CASA, medical professionals;

f. initial assessment, service plans, and all subsequent assessments;

g. educational records;

h. copy of DCFS case plans if child/youth is in DCFS custody within seven calendar days of case plan meeting;

i. summary of the child/youth's contacts with caseworker, child-placing agency staff, and family members reflecting the quality of the relationships as well as how the child/youth is coping;

j. a record of the child's placements with names of caregivers, addresses, placement and discharge dates;

k. signed placement agreements between the child-placing agency and foster parent;

l. documentation of compliance with the service plan;

m. the basis for selection of the home for the specific child/youth; and

n. discharge summary.

F. Foster Home Annual Assessment

1. The annual assessment of the foster home prior to expiration of current certification shall include a summary noting the following:

a. the home's compliance with the required licensing standards;

b. review of the foster parents' positive and negative experiences during the previous 12 months;

c. foster parents willingness to continue to foster;

d. provider feedback regarding the foster parents' care of the children which were placed in the home throughout the year; and

e. foster parents' feedback regarding the child-placing agency.

2. Documentation shall include the signature and date of the individual completing the summary.

3. If areas of concern are identified during the foster home annual assessment, the provider with input from the foster parent shall develop a written plan of action prior to recertification. The plan shall include measurable goals and timeframes and shall be signed and dated by the provider and foster parent.

4. Documentation of re-certification shall be filed in the foster parent record.

G. Discharge from Provider Care—Foster Care

1. The provider shall discharge the child only to the person, persons, or agency having legal custody of the child or by court order.

2. The provider shall complete a discharge summary within seven calendar days of the child/youth's discharge and document the following in the child/youth's record:

a. name and address of foster family from which the child was removed;

b. child/youth's date of birth;

c. date of placement and discharge from each foster home certified by the child-placing agency from which the child was discharged;

d. the name and address of the person, persons, or agency to whom the child was discharged;

e. the reason for discharge;

f. case plan and service plan goals achieved while in care; and

g. follow-up recommendations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1407(D).

HISTORICAL NOTE: Promulgated by the Department of Children and Family Services, Licensing Section, LR 45:385 (March 2019), effective April 1, 2019.

§7321. Adoption Services

A. General Requirements

1. All birth parents shall be informed of the statutory requirements of CHC 1107.1 et seq. when considering adoption as a permanent plan. The provider shall advise the parent to seek independent legal counsel. Documentation shall consist of a statement signed and dated by the birth parent and child-placing agency representative acknowledging that the biological parent was informed of the statutory requirements of CHC 1107.1 et seq.

2. The provider shall not use coercion, financial or other enticements in securing surrenders from birth parent(s). A surrender shall not be executed any earlier than the third day after the birth of the child per CHC 1122.

3. The provider shall inform the birth parent(s) that a valid surrender for adoption to a child-placing agency is final and irrevocable and makes the child-placing agency legally responsible for selecting the most appropriate permanent placement for the child. Any previous placement agreements or understandings between the provider and the birth parent(s) are considered preferences which are not legally binding in the absence of a court order. Documentation shall consist of a signed and dated statement by the CPA representative and the birth parent acknowledging the irrevocability of their decision and rights. Documentation shall also include a signed and dated statement that any previous placement agreements or understandings between the provider and the birth parent(s) are considered preferences which are not legally binding in the absence of a court order.

4. The provider shall inform the prospective adoptive parent(s) of the Louisiana Adoption Resource Exchange (LARE), a resource within DCFS of children available for adoption. If the prospective adoptive parent(s) are interested in adoption, the provider shall assist them with making an inquiry on the child to the DCFS adoption unit. Documentation that the prospected adoptive parent(s) were informed about LARE shall include adoptive parent(s) signatures and date.

5. The provider shall have a current Louisiana Adoption Resource Exchange (LARE) photo listing of children available for adoption to show all prospective adoptive families.

6. The provider shall inform the adoptive parents of the DCFS Louisiana Adoption Voluntary Registry which facilitates voluntary contact between adult adoptees, their birth parents, and/or siblings. The provider shall inform the adoptive parents that detailed information is available at dcfs.louisiana.gov. Documentation that the prospective adoptive parents were informed about the reunion registry shall include adoptive parent signature and date.

7. The provider shall inform the birth parents of the DCFS Louisiana Adoption Voluntary Registry which facilitates voluntary contact between adult adoptees, their birth parents and/or siblings. The provider shall inform the birth parents that detailed information is available at dcfs.louisiana.gov. Documentation that the birth parents were informed about the registry shall include birth parent signature and date.

8. Prior to placement, prospective adoptive parents shall be informed (telephone or electronic communication) every 60 days of the status of their application. Documentation shall include the date of notification, name of prospective adoptive parent, and signature of the child-placing agency representative making the notification or copy of email sent.

B. Certification of an Adoptive Home

1. The child-placing agency shall provide information to prospective adoptive parent(s) regarding the following:

a. the adoption process;

b. legal procedures;

c. the provider's policies and practices;

d. how children and prospective adoptive parents are matched;

e. prospective adoptive parent(s) responsibilities;

f. supervisory pre and post placement visit requirements;

g. process of obtaining a social security number or card for the child;

h. process of obtaining a revised birth certificate after finalization;

i. medical coverage options after finalization;

j. fees and costs to prospective adoptive parents;

k. subsidy availability;

l. home study process;

m. state central registry clearance requirements; and

n. criminal background clearance requirements.

2. Documentation shall consist of a signed and dated statement by the prospective adoptive parent noting discussion of the topics outlined in §7321.B.1.

3. A child shall not be placed in an adoptive placement until the adoptive parents are certified and the home has been approved.

C. Home Study—Adoption Certification

1. In addition to the requirements for a home study noted in §7315.A.10, the provider shall also document and assess the following with regard to prospective adoptive parents:

a. motivation to adopt;

b. attitude toward birth-parent(s) with regard to the reason the child was placed for adoption;

c. understanding and acceptance of the adoptive child’s background, heritage, and identity;

d. willingness to allow contact with birth family (parents, siblings, extended family) or others significant in child’s life;

e. willingness to discuss adoption and adoption related issues that may arise with the child; and

f. a plan for guardianship of the child in the event of incapacity or death of adoptive parents prior to the child reaching the age of majority.

D. Child Placement for Adoption

1. Prior to adoptive placement, the provider shall establish the availability of a child through:

a. a certified copy of a legally executed voluntary surrender(s) from the birth parent(s):

i. prior to the execution of the surrender and in accordance with CHC 1120, the surrendering parent shall participate in a minimum of two counseling sessions on two separate days with a licensed social worker, licensed psychologist, medical psychologist, licensed psychiatrist, licensed counselor, or a counselor employed by a child-placing agency relative to the surrender;

ii. the counselor shall execute an affidavit attesting that the surrendering parent attended a minimum of two sessions and whether the surrendering parent appeared to understand the nature and consequences of his/her intended act. The affidavit of the counselor shall be attached to the act of surrender;

iii. if, in the opinion of the counselor, there is any question concerning the parent's mental capacity to surrender, the basis for these concerns shall be stated in the affidavit. If indicated, the affidavit shall contain a specific recommendation for any further evaluation that may be needed to ascertain the parent's capacity; and

iv. if the surrendering father is of age of majority he may waive the two counseling sessions. In this case, the provider shall execute an affidavit attesting to the father's waiver and that the surrendering father appeared to understand the nature and consequences of his intended act. The affidavit of the counselor or attorney shall be attached to the act of surrender;

b. judgement of abandonment against the birth parent(s);

c. judgement of termination of parental rights against the birth parent(s); or

d. death certificate of birth parent(s).

E. Selection of an Adoptive Home

1. The provider shall select an adoptive family for a child based on the assessment of the child's needs and an assessment of the prospective family's ability to meet those needs.

2. The child shall participate in the placement process and in the decision that placement is appropriate, to the extent that the child's age, maturity, adjustment, family relationships, and the circumstance necessitating placement justify the child's participation.

3. The provider shall assess a child's racial, cultural, ethnic, and religious heritage and preserve them to the greatest extent possible without jeopardizing the child's right to care and a permanent placement.

4. The following factors regarding selection of a family shall be carefully considered:

a. the placement of siblings as a family group unless contraindicated by:

i. the nature of sibling relationships;

ii. the likelihood that placement would be unduly delayed by waiting for a family who will accept all of the children in a sibling group; and

iii. the existence of significant affectionate attachment between a child and foster parent(s) who wishes to adopt only the individual child of the sibling group already placed in the home when an independent assessment indicates that the child's psychological bond to the foster parent(s) is so strong that it is more important to the child than the sibling relationship(s). The independent assessment shall include the foster parent(s) willingness to maintain sibling contact after finalization of the adoption. The assessment shall be conducted by a licensed social worker, licensed psychologist, medical psychologist, licensed psychiatrist, or licensed counselor not affiliated with the agency.

b. the prospective adoptive family's willingness and ability to provide for the medical, educational, and psychological services identified as needed by the child;

c. the family's ability to accept the child's background and his mental, physical, and psychological limitations/strengths;

d. the potential impact of factors such as life style, expectations, culture, and perception of family life on the ability of the family and the child to bond.

5. Birthparent(s) may be considered for permanent placement of the child when:

a. an assessment indicates that this plan is in the best interest of the child;

b. the child and birthparent(s) have the capacity to form an affectionate and healthy parent-child relationship; and

c. the birth parent(s) meets the certification standards as an adoptive parent.

F. Placement Agreement with Adoptive Parent(s)

1. Prior to placing a child with a certified adoptive parent, provider shall obtain a child specific placement agreement signed and dated by adoptive parent and child-placing agency representative to include the following:

a. acknowledgement that the child is legally available for adoption;

b. the child is being placed with the adoptive parent(s) for the purpose of adoption;

c. the child remains in the custody of the provider until the adoption is finalized;

d. the adoptive family assumes financial responsibility for the child or in accordance with special provisions for financial responsibility included in the agreement;

e. the number of supervisory visits to assess the progress of the placement prior to finalization;

f. agreement to finalize the adoption in accordance with CHC 1211 and 1214;

g. agreement to cooperate in making a planned move for the child if removal is necessary, except in emergency circumstances;

h. reporting to the provider any changes in circumstances having an effect on the child or the adoption;

i. acknowledgement that the family will not take the child out-of-state or authorize any special medical care or treatment for the child without the consent of the child-placing agency; and

j. acknowledgement that the child-placing agency shall provide supportive services to the family to promote healthy parent-child adjustment and bonding.

G. Right to Contact with Family and Collateral—Adoption

1. A child/youth has the right to consult and visit with his/her family (including but not limited to his or her mother, father, grandparents, brothers, and sisters), legal guardian(s) and friends prior to surrender.

2. A child/youth has the right to telephone communication. The provider shall allow a child/youth to receive and place telephone calls in private prior to surrender. There shall be no restrictions on communication between a child/youth and the child/youth's legal counsel.

3. A child/youth has the right to send and receive mail and electronic mail. The provider shall allow children/youth to receive and send all mail unopened, uncensored, and unread by staff prior to surrender. Correspondence from a child/youth's legal counsel shall not be opened, read, or otherwise interfered with for any reason.

4. A child/youth has the right to consult freely and privately with legal counsel.

5. A child/youth has the right to communicate freely and privately with state and local regulatory officials.

H. Supervision of the Child in an Adoptive Placement Prior to Finalization

1. The provider placing a child in an adoptive placement shall retain custody and remain responsible for the child until a final decree has been granted.

2. Provider shall conduct an initial in home face-to-face supervisory visit with the child and one adoptive parent within seven calendar days of the child's placement. The next home face-to-face supervisory visit shall occur the following month.

3. After the visits noted in §7321.H.2, provider shall conduct an in home supervisory visit with one adoptive parent at least once every other month. Provider shall observe the infant in the home at each supervisory visit conducted.

4. Provider shall conduct a private supervisory visit with child age one year and above; every other month with at least a segment of the visit occurring in the adoptive home.

5. Provider shall conduct an in home supervisory visit with both adoptive parents and child within 30 days prior to the final decree.

6. Documentation of the contact noted in §7321.H.1-5 shall include:

a. date and time of visit;

b. individuals present;

c. location of visit;

d. duration of visit;

e. assessment of adjustment of the child and adoptive parent;

f. assessment of attachment and bonding;

g. assessment of health of child;

h. changes since last contact;

i. summary of visit; and

j. signature of person conducting supervisory visit or phone contact.

7. At least three of the supervisory visits (including the visit prior to final decree) prior to finalization shall include both adoptive parents and all other members of the household.

8. Observations made during the visits shall be used in making recommendations for finalization of the adoption. If problems are identified, the provider shall assist the family directly and/or refer the family to a resource to address the concerns.

9. Child-placing agency staff shall be available to provide the child and adoptive parent(s) assistance, consultation, and emotional support with situations and problems encountered in permanent placement through finalization.

10. The child-placing agency shall provide 24 hour crisis intervention to the adoptive family through finalization.

I. Child Case Record—Adoption Surrender

1. The provider shall maintain a record from the time of the birth parent's application for the child's placement through adoption finalization and termination of CPA services provided to the family.

2. All information in the child's record shall be continuously updated.

3. The child-placing agency shall obtain a signed copy of the act of surrender committing the child to the child-placing agency for the purpose of adoption within one calendar day of the surrender.

4. The child-placing agency shall obtain a signed copy of the court order approving the surrender within 45 calendar days of the act of surrender.

5. The child-placing agency shall document the child's name, sex, race, nationality, birth date, and birth place within 24 hours of placement.

6. The child's case record shall contain the following information within three calendar days of placement:

a. information about the child and the child's family;

b. initial medical assessments and evaluations;

c. the basis for selection of the home for the specific child;

d. the current name, address, telephone number, and marital status of the birth parent(s);

e. a narrative or summary of the services provided to the birth parent and perspective adoptive parent(s);

f. information gathered during the intake process;

g. certificate of live birth;

h. a copy of the required home study and all supporting documents; and

i. name of prospective adoptive parent(s) and date of placement.

7. All court documents and medical records shall be filed in the child's record throughout the adoption process through finalization.

8. The provider shall obtain information from the birth parent in accordance with CHC 1125 for the record.

9. If either birth or legal parent is unavailable, unwilling, or unable to assist with the completion of necessary information, the provider shall document information, to the extent possible, from the existing case record.

10. Within 30 calendar days of finalization, the case record shall be complete and contain all documentation to include court documents and medical records.

J. Updating Adoptive Home Study

1. If more than a year has lapsed since the family was certified as an adoptive home and there has not been a placement, the original homestudy shall be reviewed and updated prior to placement of a child in the home including new federal background checks and state central registry clearances. Physical examinations shall be updated if not current as referenced in §7315.E.4. Update shall include any changes from the original homestudy or documentation to reflect that no significant changes were reported or observed. Documentation shall include date, signature of person updating the homestudy, and signature of a licensed clinical social worker, licensed master social worker with 3 years of experience in adoption or foster care services, licensed professional counselor, licensed psychologist, medical psychologist, licensed psychiatrist, licensed marriage and family therapist approving homestudy update. Federal background checks and state central registry clearances shall be dated within 12 months prior to placement of a child.

2. For families who have had an adoptive placement finalized within the last 12 months and wish to apply for adoption of another child, the original home study shall be reviewed and updated prior to placement of child in the home. Update shall include any changes from the original homestudy or documentation to reflect that no significant changes reported or observed. Documentation shall include date, signatures of person updating the homestudy, and signature of a licensed clinical social worker, licensed master social worker with 3 years of experience in adoption or foster care services, licensed professional counselor, licensed psychologist, medical psychologist, licensed psychiatrist, or licensed marriage and family therapist approving homestudy update. Federal background checks and state central registry clearances shall be dated within 12 months prior to placement of the second child.

K. Adoption Disruption

1. When it has been identified that there is a potential adoption disruption, the provider shall assist the adoptive family and child to plan for the removal of the child in a manner least detrimental to the child. Except with emergency removal, the provider shall hold a planning conference to review the situation prior to removal. The planning conference shall be attended by the adoptive parents, the child (if and when in the best interest of the child), and provider. The planning conference shall include the following:

a. concerns with the placement;

b. resources used and resources which may preserve placement;

c. pros and cons of continuing the placement;

d. decision whether to disrupt the placement or maintain the placement;

e. when maintaining the placement is the plan, identifying additional services to be utilized; and

f. discussion of placement alternatives for the child and how the removal will occur if the placement is unable to be preserved.

2. A summary of the conference shall be documented by the child-placing agency and shall be signed and dated by all attendees.

3. The child-placing agency shall assist the family in providing the child the reason for the disruption, using age appropriate language. When this is not possible, the provider shall inform the child.

4. The child-placing agency shall provide services to families who suffer an adoption disruption to deal with their grief and decide if another adoptive placement is an appropriate plan. Services provided shall be documented in the adoptive parents' record and signed and dated by a child-placing agency representative.

L. Domestic Adoptions

1. In domestic adoptions, DCFS may request information from the provider necessary to complete the confidential report after the petition has been filed with the court. The provider shall submit the requested information to the department by the date specified in the notification correspondence.

2. If the child was born in Louisiana, the provider shall submit the required fee, and a completed Certificate of Live Birth form PHS 19, to the department within 21 calendar days of the adoption finalization for a revised birth certificate.

3. For a child born in a state other than Louisiana, the child-placing agency shall submit a request to the vital records registry of that state in order to reissue the child's birth certificate. A certified copy of the reissued birth certificate shall be given to the adoptive parent and a copy maintained in the child's record.

M. Intercountry Adoptions

1. The provider shall maintain a copy of the home study in the child or family's record.

2. Prior to the initiation of an intercountry adoption, the petitioners shall obtain a certified copy of the child's birth certificate, and, if the certificate is not in English, a certified translation of the certificate, shall be attached to the petition for adoption. If a certified copy of the birth certificate and certified translation are not available, the court may make findings on the date, place of birth, and parentage of the adopted person in accordance with the provisions of R.S. 40:79(C)(2).

3. For adoptions finalized in the United States, the provider shall file a petition for an intercountry adoption and maintain a copy in the child's record.

4. The provider shall maintain a copy of the court judgement recognizing the foreign adoption in the child's record prior to ending post placement supervision with the family.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1407(D).

HISTORICAL NOTE: Promulgated by the Department of Children and Family Services, Licensing Section, LR 45:388 (March 2019), effective April 1, 2019, LR 47:353 (March 2021), effective April 1, 2021, repromulgated LR 47:443 (April 2021).

§7323. Transitional Placing Program

A. General Requirements

1. The provider shall have a written program description describing:

a. the overall philosophy of independent living;

b. the long-term and short-term goals for youth; and

c. admission criteria.

2. The child-placing agency shall have a written list of rules to include expected behaviors for youth and documentation that the rules were discussed with and a copy received by youth. Documentation shall include a copy of the rules signed and dated by the youth.

3. The child-placing agency shall advise youth about the youth advisory board within seven calendar days of admission. Documentation shall include signature of staff advising youth and youth's signature and date.

4. A written description of services provided or arranged shall be included in policy noting whether the services are provided by the child-placing agency or arranged with an outside source.

a. Services shall include, but are not limited to the following:

i. assistance with obtaining a high school diploma, preparation for the HSET or higher education, job readiness, job search assistance, job placement, vocational assessment and training, tutoring, career planning;

ii. counseling to promote self-esteem and self confidence;

iii. transportation to medical appointments, employment, educational facility; and

iv. assistance with providing or arranging additional services noted in youth's service or case plan.

5. A written description of training provided to youth shall be included in policy noting whether the training is provided by the child-placing agency or arranged with an outside source.

a. Training in the following skill areas shall include, but are not limited to:

i. basic independent living skills;

ii. money management;

iii. credit counseling,

iv. home management skills (housekeeping, etc.);

v. identification of community resources;

vi. time management;

vii. communication skills;

viii. use of transportation;

ix. self awareness of physical and mental health needs;

x. problem solving/decision making;

xi. sex education;

xii. menu planning and nutrition;

xiii. meal preparation;

xiv. substance abuse education;

xv. medication management for prescription and non-prescription drugs;

xvi. preparation for college entrance exams;

xvii. personal hygiene;

xviii. childcare;

xix. de-escalation techniques used to defuse potentially dangerous situations such as physical/verbal confrontations between youth, provider staff, and peers;

xx. development of interpersonal and social skills;

xxi. preparation for transition to independence and termination of services;

xxii. cooperative living with other housemates or neighbors;

xxiii. basic maintenance, simple repairs, and when to call the landlord/provider; and

xxiv. basic first aid.

6. One training topic referenced in §7323.A.5.a. shall commence within seven calendar days from the date of placement. Training shall be continuous until all aforementioned topics are covered (depending on length of stay.) Training shall be tailored to youth's current level of functioning with additional training introduced as a youth progresses, achieves success in the minimum skills, and articulates a desire to learn more advanced skills. Documentation of training shall include signature of staff, signature of youth, training topics addressed, and date training occurred.

7. A written description of training provided to youth transitioning from the program shall be included in policy. Topics shall include, but are not limited to the following:

a. developing and following a budget;

b. identifying safe and affordable housing;

c. negotiating a lease;

d. understanding the terms of a lease or housing contract;

e. understanding landlord/tenant rights and responsibilities;

f. searching for a job; and

g. retaining a job.

8. Training shall be completed prior to the youth transitioning from the program. Documentation shall include signature of staff and youth, training topics, and date.

B. Reasonable and Prudent Parent Standard—Transitional Placing

1. The provider shall designate in writing at least one staff person per shift as the authorized representative to apply the reasonable and prudent parent standard to decisions involving the participation of youth in foster care in the transitional placing program in age or developmentally appropriate activities. The staff person(s) designated as the authorized representative shall be available to youth at all times. Licensing shall be notified in writing within five calendar days if there is a change in designated representatives.

2. The authorized representative shall utilize the reasonable and prudent parent standard when making decisions involving the participation of youth in age or developmentally appropriate activities.

3. The authorized representative shall receive training or training materials regarding the use of the reasonable and prudent parent standard within three calendar days of being designated as the authorized representative. Documentation of the reasonable and prudent parent training including signature and date of staff shall be maintained. The reasonable and prudent parent training or training materials, as developed or approved by the DCFS, shall include, but are not limited to the following topic areas:

a. reasonable and prudent parent standard;

b. age and/or developmentally appropriate activities or items;

c. role of the provider and of DCFS; and

d. allowance for normalcy of the youth while respecting the parent's residual rights.

C. Independent Living Unit Requirements—Transitional Placing

1. Only youth in the transitional placing program shall reside in the living unit.

2. Each youth shall have his/her own bed located in a designated bedroom. With the exception of a studio apartment housing one youth, common areas shall not be used as a bedroom; however, if youth chooses to use a common area as a bedroom, documentation shall include a signed and dated statement by youth indicating such. In addition, written annual approval is required by the OSFM for each apartment unit/location address allowing a common area to be used as a bedroom.

3. Each youth's mattress shall be at a minimum a standard twin size. The mattress shall be clean, comfortable, and non-toxic. Upon admission each youth should be provided a new mattress or water proof mattress cover.

4. The living unit shall have an operable air conditioning and heating system.

5. The child-placing agency shall provide each youth with a chest, dresser, or other adequate storage space for storing clothing and personal belongings in the youth's bedroom, and a designated space for hanging clothes in or near the youth's bedroom.

6. The child-placing agency shall provide youth certain articles and supplies for furnishing the living unit. The articles and supplies may be new or used; however, they shall be in good condition. The articles and supplies shall include, but are not limited to:

a. bed linens,

b. furnished area for dining,

c. living or sitting room furniture,

d. lighting in each room,

e. microwave,

f. stove,

g. oven,

h. refrigerator,

i. dishes, cups, and glasses,

j. eating and cooking utensils,

k. vacuum cleaner, if living unit is carpeted

l. towels, and

m. window coverings.

7. Youth shall have 24 hour access to a cellphone or onsite child-placing agency office phone for communicating with emergency dispatch services.

8. At the time of placement, the child-placing agency shall provide youth with basic household and hygiene supplies such as detergent, cleaning supplies, broom, mop, soap, paper towels, toothpaste, shampoo, deodorant, etc. The child-placing agency shall ensure that youth are continually supplied with basic household and hygiene supplies.

9. First aid supplies shall be provided by the child-placing agency and maintained in each transitional placing living unit unless the TP program office is on-site, staffed 24 hours a day, and accessible to all the residents, then first aid supplies may be stored in the office. Supplies shall include, but not limited to the following:

a. first aid manual;

b. sterile first aid dressings;

c. bandages, adhesive strips (Band-Aids, Curads, etc.) or roller bandages;

d. adhesive tape;

e. scissors;

f. tweezers;

g. thermometer;

h. antiseptic solution;

i. antibiotic cream/ointment; and

j. over the counter medications including pain reliever/fever reducer and gastrointestinal medication.

D. Placement of Youth in Transitional Placing program

1. If referred through an agency, the child-placing agency shall have signed and dated documentation from the referring agency that the youth is appropriate for independent living placement and meets the following criteria prior to placement in the program:

a. youth has the ability to maintain his own household semi-independently with supports in cleaning, meal preparation, basic household maintenance, and homework completion;

b. youth has the maturity level appropriate to living semi-independently; and

c. youth has not been suicidal, been homicidal, or exhibited any psychotic behaviors in the past six months.

2. Approval from child welfare state office staff shall be obtained and documented prior to placing a youth in DCFS custody in a transitional placing program that has been suicidal, homicidal, and/or exhibited any psychotic behaviors in the past six months.

3. Documentation from the child welfare state office shall include:

a. name of the CPA for which approval is granted,

b. name and birth date of youth for which approval is granted,

c. statement explaining why the youth is appropriate for placement in the transitional placing program despite not meeting the criteria noted in Section 7323.D.1.c,

d. signature of child welfare state office staff granting approval and date of approval which shall be prior to the placement date, and

e. conditions, if any for which approval is granted.

4. A signed and dated agreement between the child-placing agency and referring agency shall be maintained in youth's file for all youth under the age of 18 and for those over 18 years of age who are in state's custody.

5. Upon attaining their eighteenth birthday, a youth shall express their willingness to remain in the TP program and intent to abide by CPA policies. A signed and dated agreement attesting to such between the child-placing agency and youth shall be maintained in the youth's file.

6. The provider shall ensure youth who have been committed to the Department of Corrections, Office of Juvenile Justice for the commission of a crime live in separate living units from youth not committed to the Department of Corrections, Office of Juvenile Justice.

E. Service Plan—Transitional Placing

1. The provider shall develop a written service plan based upon the individual needs of the youth within 15 calendar days of placement.

2. Youth shall be involved in the development of the service plan.

3. The service plan shall address the following:

a. supervision and contact with youth required by the child-placing agency;

b. housing;

c. money management;

d. emergency preparedness and evacuation procedures;

e. educational goals;

f. job training goals;

g. objectives and services for each goal;

h. person responsible for each action within each goal; and

i. specific timeframes for achieving each goal.

4. The service plan meeting shall include the youth and legal guardian if youth is under the age of 18 or in custody of the state or the youth and provider if youth is 18 years of age or older. Documentation of the service plan meeting shall include the date, names of individuals invited, and signatures of attendees. If the legal guardian is required to attend and unable, the child-placing agency shall obtain legal guardian's signature or document that the service plan was submitted to the legal guardian within seven calendar days of the meeting.

5. Documentation of compliance with youth's service plan shall be on-site and available for review.

6. Service plan shall be reviewed with the youth on a quarterly basis or more frequently as the youth's needs or circumstances dictate. Documentation of the review shall include the date and signature of the provider and youth.

7. Provider shall prepare a transition plan for youth, prior to a planned discharge from the program to facilitate a successful integration within the community. The plan shall include resources and recommendations and shall be discussed with the youth. Documentation shall include a copy of the plan, signed and dated by provider and youth.

F. Supervision of Youth—Transitional Placing

1. The provider shall have a written plan for overseeing placement to ensure the youth's well-being.

2. Provider staff shall communicate with youth on a daily basis preferably by a telephone call; however, text messaging is acceptable.

3. All contacts with the youth via telephone and in person with the youth shall be documented to include date, time, method of contact, location, brief summary of contact, and signature of staff contacting youth.

4. Provider staff shall be accessible via phone or in person to youth at all times.

5. Within the first 30 calendar days, the provider shall have at least three weekly face-to-face visits with the youth with at least one of the weekly visits occurring in the youth's residence. Thereafter, two face-to-face weekly visits with the youth with at least one of the weekly visits occurring in the youth's residence.

6. If the provider has a reasonable cause to believe that the youth's living situation presents risks to the youth's health or safety, the youth shall be moved immediately to another living unit until the risk is no longer present.

7. Provider shall ensure that the youth's living environment is maintained in a clean and safe manner.

8. Provider shall ensure that the youth are receiving medical care.

9. One to one supervision of youth is allowed in emergency situations only to protect the youth and shall not exceed 48 hours.

G. Money Management—Transitional Placing

1. The provider shall have a policy regarding the management of youth's money.

2. A provider shall only manage money for youth when such management is mandated by the youth's service or case plan.

3. Providers who manage youth's money shall maintain a current balance sheet in the youth's file containing all financial transactions including date of transaction, amount of transaction, and the signature of staff and the youth for every transaction. When requested by youth, a balance sheet shall be provided to youth within 24 hours of the request.

H. Nutrition—Transitional Placing

1. The child-placing agency shall ensure adequate food is available to youth on a daily basis.

2. When food is purchased, provided, or prepared by the child-placing agency, the child-placing agency shall ensure that meals include the basic four food groups and each youth's nutritional needs are met.

3. The child-placing agency shall provide assistance with meal preparation when the youth's work and/or school responsibilities do not allow adequate time for food preparation.

4. When meals are provided by the child-placing agency, written menus shall be maintained for one year.

5. Receipts of food purchased by the provider shall be maintained for one year.

I. Emergency Preparedness—Transitional Placing

1. The provider, in consultation with appropriate state or local authorities, shall establish and follow a written multi-hazard emergency and evacuation plan to protect youth in the event of any emergency.

2. The written plan of emergency procedures shall provide for the evacuation of youth to a safe area.

3. Evacuation plans shall include procedures for addressing both planned and unplanned evacuations to alternate locations within the city and evacuations outside of the city.

4. Within seven calendar days of placement, provider shall instruct youth in how to contact police, fire, and other emergency service personnel, how to prevent fire and accidents, how to respond to fires and other emergencies, and how to use firefighting and other emergency equipment. Documentation shall include a summary of information discussed, youth's signature, and date.

5. The emergency plan shall be reviewed with youth within seven calendar days of placement, any time changes occur, and at least annually. Documentation evidencing that the plan has been reviewed with and agreed upon by youth shall include youth signature and date.

6. Provider shall ensure youth have access to medication and other necessary supplies or equipment during an emergency situation.

7. Provider's plan shall include a system to account for all youth whether sheltering in place, locking down, or evacuating to a pre-determined relocation site.

8. Provider's plan shall include an individualized emergency plan for each youth with special needs which shall include medical information, medical contact information, and additional supplies/equipment needed.

9. Provider's plan shall include emergency contact information for staff accompanying youth in the event evacuation from the child-placing agency is necessary.

10. At a minimum, the plan shall be reviewed annually by the program director for accuracy and updated as changes occur. Documentation of review by the program director shall consist of the program director's signature and date.

11. The emergency and evacuation plan shall be submitted to the Licensing Section at least annually, any time changes are made, and upon request by the licensing section.

J. Restitution—Transitional Placing

1. Monetary restitution for damages shall only occur when there is clear evidence of the youth's responsibility for the damages and the child-placing agency director approves the restitution.

2. The youth and his/her legal guardian(s) shall be notified in writing within 24 hours of the incident which results in the claim for restitution and shall be provided with specific details of the damages, to include how, when, and where the damages occurred, and the amount of damages claimed. If the amount is unknown, an estimate of the damages shall be given with an exact figure provided within 30 days.

3. After notification of the claim for restitution, the youth and his/her legal guardian(s) shall be given seven calendar days to respond in writing to any claim for damages.

4. In the event responsibility for the damages is not agreed upon by the provider and legal guardian, the provider shall not withhold money from the youth's account for restitution.

5. When the youth is required to pay restitution, the payment plan shall be discussed with the youth and signed by the youth, legal guardian, and provider staff.

6. If the provider receives reimbursement for damages either through insurance or other sources, the youth shall not be responsible for restitution.

K. Youth Advisory Board—Transitional Placing

1. The provider shall develop written polices for a Youth Advisory Board. The Youth Advisory Board shall provide feedback to the child-placing agency staff relative to program procedures, practices, and services.

2. Prior to a youth advisory board meeting being convened, provider shall advise youth on how to conduct meetings, set agendas, vote, and suggest ways to provide feedback to provider regarding concerns identified in meetings. Documentation shall include the date youth are advised, individuals in attendance, signature of staff advising youth, and a summary of information provided. If the person designated by the youth advisory board to conduct the advisory board meeting changes, the child-placing agency shall advise the new appointed youth on how to conduct meetings, set agendas, vote, and suggest ways to provide feedback to provider regarding concerns identified in meetings.

3. The Youth Advisory Board shall consist only of youth representatives receiving services from the child-placing agency.

4. All youth receiving services shall be eligible to participate.

5. Provider shall not be present at youth board meetings, unless invited to attend by youth; however, staff shall be available in the event the youth request guidance.

6. The youth advisory board meeting time and date shall be scheduled at least a month in advance to allow participation by interested youth.

7. The Youth Advisory Board shall meet at least monthly. Documentation shall include the date of meeting and minutes of the meeting which includes individuals present, topics discussed, and concerns and suggestions referred to the attention of the child-placing agency.

8. Youth shall designate a representative to report concerns to the child-placing agency following the meeting. Documentation shall include the date concerns were reported to the provider, the name of the staff person to whom the concerns and suggestions were discussed, and the name of youth reporting concerns.

9. The child-placing agency shall maintain documentation noting the date Youth Advisory Board representative reported concerns and suggestions, the issues discussed, and the child-placing agency's response.

10. Provider shall advise the youth advisory board representative of the agency's response in writing within seven calendar days of the initial report.

L. Discharge Process—Transitional Placing

1. Provider shall have a written discharge policy detailing the reasons a youth may be discharged from the program.

2. For youth under the age of majority, the provider shall discharge the youth only to the legal guardian or by court order.

3. The discharge summary shall identify specific resources in the community with referrals and recommendations for aftercare services with a cooperating provider, if needed.

4. Provider shall notify the legal guardian at least fourteen calendar days prior to the planned discharge of a youth.

5. A provider shall compile a complete written discharge summary within three calendar days of the youth's discharge. The summary shall be included in the youth's record and when discharged to another provider, this summary shall accompany the youth.

6. The discharge summary shall include:

a. services provided while in the program;

b. growth and accomplishments while in the program;

c. continuing and unmet needs which remain to be met;

d. identified resources and referrals to assist youth in meeting their needs in the community;

e. date of entry and exit from the program;

f. the name and address of the person, persons, or agency to whom the child was discharged;

g. the reason for discharge;

h. case plan goals, service plan goals, and other goals achieved while in care;

i. name and address of any family members or others significant to youth; and

j. signature and date of child-placing agency staff completing summary.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1407(D).

HISTORICAL NOTE: Promulgated by the Department of Children and Family Services, Licensing Section, LR 45:392 (March 2019), effective April 1, 2019, LR 46:686 (May 2020), effective June 1, 2020, LR 47:353 (March 2021), effective April 1, 2021, repromulgated LR 47:443 (April 2021).

Chapter 75. Juvenile Detention Facilities

§7501. Purpose

A. It is the intent of the legislature to protect the health, safety, and well-being of the youth of this state who are placed in a juvenile detention facility (JDF). Toward this end, it is the purpose of R.S. 15:1110 to provide for the establishment of statewide standards for juvenile detention facilities, to ensure maintenance of these standards, and to regulate conditions in these facilities through a licensing program. It shall be the policy of this state that all juvenile detention facilities provide temporary, safe, and secure custody of youth during the pendency of youth proceedings, when detention is the least restrictive alternative available to secure the appearance of the youth in court or to protect the safety of the child or the public.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:1110.

HISTORICAL NOTE: Promulgated by the Department of Children and Family Services, Division of Programs, Licensing Section, LR 38:1559 (July 2012).

§7503. Authority

A. Legislative Provisions

1. R.S. 15:1110 is the legal authority under which the department prescribes minimum standards for the health, safety and well-being of youth placed in juvenile detention facilities (JDF).

2. In accordance with HCR 71 of the 2020 Legislative Session, license renewal fees due from July 1, 2020 through June 30, 2021 are hereby suspended for existing juvenile detention facilities located in Louisiana as part of Louisiana's response to and as a way to help businesses reopen and recover from COVID-19.

B. Penalties

1. Whoever operates a juvenile detention facility without a valid license issued by the department shall be fined $1,000 per day for each day of such unlicensed operation in accordance with R.S. 15:1110.1. Such fines may be assessed by the department separately or in conjunction with a proceeding for injunctive relief as provided in Section 7503.B.2.

2. In addition to the civil fines, the department may file suit in the district court in the parish in which the facility is located for injunctive relief, including a temporary restraining order, to restrain the institution, society, agency, corporation, person or persons, or any other group operating the facility, from continuing the violation.

C. Waiver Request

1. In specific instances, the secretary of DCFS may waive compliance with a minimum standard if it is determined that the economic impact is sufficiently great to make compliance impractical, as long as the health and well-being of the staff and/or youth are not imperiled.

a. Standards shall be waived only when the secretary determines, upon clear and convincing evidence, that the demonstrated economic impact is sufficient to make compliance impractical for the provider despite diligent efforts, and when alternative means have been adopted to ensure that the intent of the regulation has been met ensuring the health, safety, and well being of the youth served.

b. An application for a waiver shall be submitted by a provider using the request for waiver from licensing standards form. The form shall be submitted to the DCFS Licensing Section. A request for a waiver shall provide the following information: a statement of the provisions for which the waiver is being requested, an explanation of the reasons why the provisions cannot be met, including information demonstrating that the economic impact is sufficiently great to make compliance impractical, and a description of alternative methods proposed for meeting the intent of the regulation sought to be waived.

c. All requests for a waiver will be responded to in writing by the DCFS secretary or designee. A copy of the waiver decision shall be kept on file at the facility and presented to licensing staff during all licensing inspections.

d. A waiver is issued at the discretion of the secretary and continues in effect at his/her pleasure. The waiver may be revoked by the secretary at any time, either upon violation of any condition attached to it at issuance, or upon failure of any of the statutory prerequisites to issuance of a waiver (i.e., the cost of compliance is no longer so great as to be impractical or the health or safety of any staff or any child in care is imperiled), or upon his/her determination that continuance of the waiver is no longer in the best interest of DCFS.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:1110.

HISTORICAL NOTE: Promulgated by the Department of Children and Family Services, Division of Programs, Licensing Section, LR 38:1559 (July 2012), amended LR 39:1006 (April 2013), effective July 1, 2013, repromulgated LR 39:1264 (May 2013), amended by the Department of Children and Family Services, Licensing Section, LR 47:230 (February 2021), effective March 1, 2021.

§7505. Definitions

Abuse—any one of the following acts which seriously endangers the physical, mental, or emotional health of the youth:

1. the infliction, attempted infliction, or, as a result of inadequate supervision, the allowance of the infliction or attempted infliction of physical or mental injury upon the youth by a parent or any other person;

2. the exploitation or overwork of a youth by a parent or any other person; and

3. the involvement of the youth in any sexual act with a parent or any other person, or the aiding or toleration by the parent or the caretaker of the youth's sexual involvement with any other person or of the youth's involvement in pornographic displays or any other involvement of a youth in sexual activity constituting a crime under the laws of this state.

Administrative Segregation—restriction of a youth to a designated sleeping room or dorm for reasons other than current acting-out behavior, discipline, medical reasons, or threats to the youth.

Administrator—the person with authority and responsibility for the on-site, daily implementation and supervision of the facility's overall operation.

Affiliate—

1. with respect to a partnership, each partner thereof;

2. with respect to a corporation, limited liability company, or other corporate entity, each officer, director and stockholder thereof; and

3. with respect to a natural person: anyone related within the third degree of kinship to that person; each partnership and each partner thereof of which that person or any affiliate of that person is a partner; and each corporation in which that person or any affiliate of that person is an officer, director or stockholder.

Alternate Power Source—an alternate source of electrical power that provides for the simultaneous operations of life safety systems during times of emergency.

Average Daily Population—a calculation determined by counting the number of youth in detention each day of the month, adding the daily counts (at 0600 hours), and dividing the sum by the number of days in the month.

Average Length of Stay (ALOS)—average length of stay is calculated on those youth who end a placement during the reporting period. ALOS is the sum of all the days of all the stays for those released during the period divided by the number of "releases." Stays should be calculated by counting admission date but not date of release.

Body Cavity Search—a visual inspection of a body cavity, defined as a rectal cavity, or vagina, for the purpose of discovering whether contraband is concealed in it.

Change of Location—change of physical address of facility.

Change of Ownership—a transfer of ownership of a currently licensed facility that is in operation and serving youth to another entity without a break in service to the youth.

Complaint—an allegation that any person or facility is violating any provisions of these standards or engaging in conduct, either by omission or commission, that negatively affects the health, safety, rights, or welfare of any youth who is residing in a juvenile detention facility.

Contraband—any object prohibited within a juvenile detention facility, which may include but is not limited to: currency, stolen property, articles of food or clothing, intoxicating beverages, narcotics, firearms or dangerous weapons, telecommunications devices, tattooing equipment, electronic devices, or any other object or instrumentality intended for use as a tool in the planning or aiding in an escape or attempted escape by a youth in a local juvenile detention facility in the state.

Corporation—any entity incorporated in Louisiana or incorporated in another state, registered with the secretary of state in Louisiana, and legally authorized to do business in Louisiana.

Delinquent Act—an act committed by a child of 10 years of age or older, which if committed by an adult is designated an offense under the statutes or ordinances of this state, or of another state if the offense occurred there or under federal law, except traffic violations.

Department (DCFS)—the Louisiana Department of Children and Family Services.

Direct Care Staff—a person counted in the staff/youth ratio, whose duties include the direct care, supervision, guidance, and protection of youth. This may include staff such as administrative staff that has the required background clearances and appropriate training that may serve temporarily as a detention officer.

Electronic Security Wand Scanner—an electronic hand-held security scanner used to detect metal weapons in a detention facility.

Frisk—to search a youth for something concealed, including a weapon or illegal contraband, by passing the hands quickly over clothes or through pockets.

Governing Body—a parent agency exercising administrative control over a facility.

Grievance Procedure—a method for the expression and resolution of youth's grievances or complaints.

Inspection—a thorough investigatory review of information, including written records and interviews with staff and youth, to determine whether and the extent to which a facility's policies, practices, and protocols comply with the standards.

Juridical Person/Entity—corporation, partnership, limited-liability company, church, university, or governmental entity.

Juvenile Detention Facility (JDF)—means a facility that provides temporary safe and secure custody of youth during the pendency of juvenile proceedings, when detention is the least restrictive alternative available to secure the appearance of the youth in court or to protect the safety of the child or the public, as described in R.S. 15:1110.

LDE Staff—Louisiana Department of Education or local school district staff.

Mechanical Restraints—an approved professionally manufactured mechanical device to aid in the restriction of a person's bodily movement. The following are approved mechanical restraint devices.

1. *Ankle Cuffs*—metal, cloth or leather band designed to be fastened around the ankle to restrain free movement of the legs.

2. *Anklets*—cloth or leather band designed to be fastened around the ankle or leg.

3. *Handcuffs*—metal devices designed to be fastened around the wrist to restrain free movement of the hands and arms.

4. *Waist Band*—a cloth, leather, or metal band designed to be fastened around the waist used to secure the arms to the sides or front of the body.

5. *Wristlets*—a cloth or leather band designed to be fastened around the wrist or arm which may be secured to a waist belt.

6. *Plastic Cuffs*—plastic devices designed to be fastened around the wrist or legs to restrain free movement of hands, arms or legs.

Medical Isolation—the restriction of a youth to a sleeping room specifically for medical reasons that may pose a threat to himself/herself, or others at the facility.

Natural Person—a human being and, if that person is married and not judicially separated or divorced, the spouse of that person.

Neglect—the refusal or unreasonable failure of a parent or caretaker to supply the child with necessary food, clothing, shelter, care, treatment, or counseling for any injury, illness, or condition of the child, as a result of which the child's physical, mental, or emotional health and safety is substantially threatened or impaired.

Owner or *Operator*—individual or juridical entity exercising direct or indirect control over a licensed entity.

1. For licensing purposes the following are considered owners:

a. *Individual Ownership*—individual and spouse listed on the licensing application submitted and who have access to the children/youth in care of the provider and/or children/youth who receive services from the provider and/or who are present at any time on the facility premises when children/youth are present;

b. *Partnership*—all limited or general partners and managers who are listed on the licensing application submitted and who have access to the children/youth in care of the provider and/or children/youth who receive services from the provider, and/or who are present at any time on the facility premises when children/youth are present;

c. *Church Owned, University Owned* or *Governmental Entity*—any clergy and/or board member who is listed on the licensing application submitted and who has access to the children/youth in care of the provider, and/or children/youth who receive services from the provider, and/or who is present at any time on the facility premises when children/youth are present;

d. *Corporation* (includes limited liability companies)—individual(s) who is registered as an officer of the board with the Louisiana Secretary of State and/or listed on the licensing application submitted and who has access to the children/youth in care of the provider, and/or children/youth who receive services from the provider, and/or who is present at any time on the facility premises when children/youth are present.

Partnership—includes any general or limited partnership licensed or authorized to do business in this state. The owners of a partnership are its limited or general partners and any managers thereof.

Pat-down Search—a running of the hands over the clothed body of a youth by a staff member to determine whether the youth possesses contraband.

Physical Escort Techniques—the touching or holding a youth with a minimum use of force for the purpose of directing the youth's movement from one place to another. A physical escort is not considered a physical restraint.

Physical Restraint—a professionally trained restraint technique that uses a person's physical exertion to completely or partially constrain another person's body movement without the use of mechanical restraints.

Protective Isolation—is the restriction of a youth to a designated sleeping room or dorm due to his/her safety being threatened.

Provider—all owners or operators of the facility including the director of such facility.

Qualified Medical Professional—health professional who, by virtue of education, credentials, and experience, is permitted by law to evaluate and care for youth within the scope of his or her professional practice.

Qualified Mental Health Professional—a mental health professional who, by virtue of education, credentials, and experience, is permitted by law to evaluate and care for youth within the scope of his or her professional practice.

Reasonable Suspicion—suspicion based on specific and articulable facts which indicate that an owner, or current or potential employee or volunteer has been investigated and determined to be the perpetrator of abuse and/or neglect of a minor resulting in a justified and/or valid finding prior to official notification from child welfare whether the person is or is not listed on the state central registry.

Relatives—spouses, children of spouses, brothers, sisters, parents, brother-in-law, sister-in-law, aunts, uncles, nieces, nephews, grandparents, and first cousins.

Room Confinement—the restriction of a youth to his/her assigned sleeping room, due to disciplinary reasons.

Room Isolation—the restriction of a youth to a room that is separated from the general population, due to current acting out behavior.

Shall—must or mandatory.

Special Needs—the individual requirements (as for education) of a person with a mental, emotional, developmental, or physical disability or a high risk of developing one.

State Central Registry (SCR)—a subsystem of the state repository that maintains information on perpetrators of child abuse and neglect with valid findings on tiers I, II, and III of the child welfare tiered validity system.

Status Offense—an allegation that a youth is truant or has willfully and repeatedly violated lawful school rules, ungovernable, a runaway, committed an offense applicable only to youth, or a youth under age 10 years of age who has committed any act which if committed by an adult would be a crime under any federal, state, or local law.

Strip Search—a search that requires a person to remove some or all of his or her clothing so as to permit a visual inspection of the underclothing, breasts, buttocks, or genitalia of such person.

Substantial Bodily Harm—physical injury serious enough that a prudent person would conclude that the injury required professional medical attention. It does not include minor bruising, the risk of minor bruising, or similar forms of minor bodily harm that will resolve healthily without professional medical attention.

Support Staff—a person who works directly for the facility or a person who provides direct services to youth in a facility on a recurring basis with no discipline authority over youth.

Unencumbered Space—usable space that is not occupied by furnishing or fixtures.

Validated Mental Health Screening Tool—an instrument that has been scientifically tested to determine that it accurately measures what it purports to measure.

Volunteer—an individual who works at the facility and whose work is uncompensated. This may include students, interns, tutors, counselors, persons providing recreational

activities including religious service, and other non-staff individuals who may or may not interact with youth in a supervised or unsupervised capacity.

Waiver—an exemption granted by the secretary of the department, or designee, from compliance with a standard that will not place the youth or staff member at risk.

Youth—an individual placed in a JDF in accordance with limitations and exceptions noted in state law who is not less than 10 years of age nor older than 21 years of age.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:1110.

HISTORICAL NOTE: Promulgated by the Department of Children and Family Services, Division of Programs, Licensing Section, LR 38:1559 (July 2012), amended LR 39:1006 (April 2013), effective July 1, 2013, amended LR 42:395 (March 2016), amended by the Department of Children and Family Services, Licensing Section, LR 45:652 (May 2019), effective June 1, 2019.

§7507. Licensing Requirements

A. General Provisions

1.a. All providers meeting the criteria of Section 7507.A.1.b shall obtain a license on or before July 1, 2013 in accordance with R.S. 15:1110(E) in order to continue operating.

b. All providers in operation prior to July 1, 2013 may continue to operate without a license if timely application for a license has been made to DCFS. Providers shall make application to the department within 90 days of the effective date of this Rule. All requirements herein shall be met, unless otherwise expressly stated in writing by the department prior to the issuance of a license.

2. Effective July 1, 2013, it is mandatory to obtain a license from the department prior to beginning operation.

3. Anyone applying for a license after the effective date of these standards shall meet all of the requirements herein, unless otherwise stated in these regulations or other official written policy of the department.

4. Two licenses shall not be issued simultaneously for the same physical address. If a second license is issued for a physical address which is already licensed, the second license shall be null and void.

5. The provider shall allow representatives of DCFS access to the facility, the youth, and all files and records at any time during hours of operation and/or anytime youth are present. DCFS staff shall be allowed to interview any staff member or youth. DCFS staff shall be admitted immediately and without delay, and shall be given access to all areas of a facility, including its grounds. If any portion of a facility is set aside for private use by the facility's owner, DCFS representatives shall be permitted to verify that no youth is present in that portion and that the private areas are inaccessible to youth.

6. All new construction to a currently licensed facility or renovation requires approval from the Office of State Fire Marshal, Office of Public Health, City Fire (if applicable), and the Licensing Section prior to occupying the new space.

7. Neither providers nor staff shall permit an individual convicted of a sex offense as defined in R.S. 15:541, other than youthful offenders convicted of such offense and committed to the custody of that specific facility, to have physical access to a JDF.

8. Providers shall comply with the requirements of the Americans with Disabilities Act, 42 U.S.C.§12101 et seq. (ADA).

9. If the facility is located in the same building or on the grounds of any type of adult jail, lockup, or corrections facility, it shall be a separate, self-contained unit. All applicable federal and state laws pertaining to the separation of youth from adult inmates will apply.

10. The population using housing or living units shall not exceed the designated or rated capacity of the facility.

11. All providers shall adhere to all polices with regard to practice and procedures.

12. DCFS is authorized to determine the period during which the license shall be effective. A license shall be valid until the expiration date shown on the license, unless the license is modified, extended, revoked, suspended, or terminated.

13. Once a license has been issued, DCFS shall conduct licensing inspections at intervals (not to exceed one year) deemed necessary by DCFS to determine compliance with licensing standards, as well as other required statutes, laws, ordinances, rules, and regulations. These inspections shall be unannounced.

14. Whenever DCFS is advised or has reason to believe that any person, agency, or organization that holds a license or has applied for a license is operating in violation of the JDF regulations or laws, DCFS shall conduct an investigation to ascertain the facts.

15. Any owner/owners of a juvenile detention facility shall provide documentation of a state central registry clearance from child welfare and satisfactory fingerprint based criminal record check conducted by Louisiana State Police.

a. When an individual is listed on the licensing application submitted and/or registered as an officer of the board with the Louisiana Secretary of State and does not have access to children/youth in care or children/youth who receive services from the provider and/or who is not present at any time on the facility premises when children/youth are present, a DCFS approved attestation form signed and dated by the individual is acceptable in lieu of the state central registry clearance and a satisfactory fingerprint based CBC from LSP. The attestation form shall be accepted for a period of one year from the date individual signed attestation form.

B. Initial Licensing Application Process

1. An initial application for licensing as a JDF shall be obtained from DCFS. A completed initial license application packet along with a fee as required by law shall be submitted to and approved by DCFS prior to an applicant providing

JDF services. The completed initial licensing packet shall include:

a. application and non-refundable fee as established by R.S. 15:1110(F);

b. current Office of State Fire Marshal approval for occupancy;

c. current Office of Public Health, Sanitarian Services approval;

d. current city fire department approval, if applicable;

e. city or parish building permits office approval, if applicable;

f. current local zoning approval, if applicable;

g. current department of education approval, if applicable;

h. copy of proof of current general liability and property insurance for JDF;

i. copy of proof of insurance for vehicle(s) used to transport youth;

j. organizational chart or equivalent list of staff titles and supervisory chain of command;

k. administrator resume and proof of educational requirements;

l. list of consultant/contract staff to include name, contact information, and responsibilities;

m. copy of table of contents of all policy and procedure manuals;

n. copy of evacuation plan;

o. copy of facility rules and regulations;

p. copy of grievance process;

q. a floor sketch or drawing of the premises to be licensed; and

r. documentation of a state central registry clearance as required in §7508.

2. If the initial licensing packet is incomplete, the applicant will be notified in writing of the missing information and will have 14 calendar days to submit the additional requested information. If the department does not receive the additional requested information within the 14 calendar days, the application will be closed. After an initial licensing application is closed, an applicant who is still interested in becoming a JDF shall submit a new initial licensing packet with a new application fee to start the initial licensing process. Once the department has determined the application is complete, the applicant will be notified to contact the department to schedule an initial inspection. If an applicant fails to contact the department and coordinate the initial inspection within 45 calendar days of the notification, the initial licensing application shall be closed. After an initial licensing application is closed, an applicant who is still interested in becoming a JDF shall submit a new initial licensing packet with a new application fee to re-start the initial licensing process.

C. Initial Licensing Inspection

1. In accordance with R.S. 15:1110(E), prior to the initial license being issued to the JDF, an initial licensing inspection shall be conducted on-site at the JDF to assure compliance with all licensing standards. No youth shall be provided services by the JDF until the initial licensing inspection has been performed and DCFS has issued a license. The licensing inspection shall not be completed if the provider is found in operation prior to the issuance of a license and the application shall be denied.

2. In the event the initial licensing inspection finds the JDF is compliant with all licensing laws and standards, and is compliant with all other required statutes, laws, ordinances, rules, regulations, and fees, DCFS may issue a license to the JDF. The license shall be valid until the expiration date shown on the license, unless the license is modified, extended, revoked, suspended, or terminated.

3. The license shall be displayed in a prominent place at the JDF.

D. Fees

1. An annual fee as established by R.S. 15:1110(F), shall be payable to DCFS prior to the date of expiration of the current license by certified check, or money order. Non-payment of fee prior to the date of expiration of the current license shall result in the non renewal of the license. The licensee is responsible for ensuring receipt of the annual fee by the Licensing Section.

6 or fewer youth	7 to 15 youth	16 or More youth
$400	$500	$600

2. Other license fees include:

a. a $25 processing fee shall be submitted to the department for replacing a license when changes are requested by the provider, i.e., name change, age range, etc. No processing fee shall be incurred when the request coincides with the regular renewal of a license;

b. a $5 processing fee shall be submitted to the department for issuing a duplicate license with no changes.

E. Renewal of License

1. The license shall be renewed on an annual basis prior to its expiration date.

2. The JDF shall submit, at least 30 days prior to its license expiration date, a completed renewal application form, and fee as established by law. The following documentation shall also be included:

a. Office of Fire Marshal approval;

b. Office of Public Health, Sanitarian Services approval;

c. city fire department approval, if applicable;

d. copy of proof of current general liability and property insurance for JDF; and

e. copy of proof of insurance for vehicle(s) used to transport youth.

3. Prior to renewing the JDF license, an on-site inspection shall be conducted to assure compliance with all licensing laws and standards. If the JDF is found to be in compliance with the licensing laws and standards, and any other required statutes, laws, ordinances, or regulations, the license shall be renewed for a 12-month period.

4. In the event the annual licensing inspection finds the JDF is non-compliant with any licensing laws or standards, or any other required statutes, ordinances or regulations but the department, in its sole discretion, determines that the noncompliance does not present a threat to the health, safety, or welfare of the youth, the JDF shall be required to submit a corrective action plan to the department for approval. The department shall specify the timeline for submitting the corrective action plan based on such non-compliance or deficiencies cited but no later than 14 calendar days from the date of notification. The corrective action plan shall include a description of how the deficiency shall be corrected and the date by which correction(s) shall be completed. Failure to submit an approved corrective action plan timely shall be grounds for non-renewal of the license.

5. If it is determined that such noncompliance or deficiencies have not been corrected prior to the expiration of the license, the department may issue an extension of the license not to exceed two months.

6. When it is determined by the department that such noncompliance or deficiencies have been corrected, a license will be issued for a period not to exceed 12 months.

7. If it is determined that all areas of noncompliance or deficiencies have not been corrected prior to the expiration date of the extension, DCFS may revoke the license.

F. Notification of Changes

1. A license is not transferable to another person, entity, or location.

2. When a JDF changes location, it is considered a new operation and a new application and fee as required by law for licensure shall be submitted 30 days prior to the anticipated move. An onsite inspection verifying compliance with all standards is required prior to youth occupying the new space.

3. When a facility changes ownership, the current license is not transferable. A change of ownership occurs when the license and/or facility is transferred from one natural or juridical person to another, or when an officer, director, member, or shareholder not listed on the initial application exercises or asserts authority or control on behalf of the entity. The addition or removal of members of a board of directors shall not be considered a change of ownership where such addition or removal does not substantially affect the entity's operation and shall require only notice be given to the DCFS of such addition or removal.

a. Prior to the ownership change and in order for a temporary license to be issued, the new owner shall submit a change of ownership (CHOW) application packet containing the following:

i. a completed application and full licensure fee as listed in §7507.D. based on current licensed capacity or requested capacity, whichever is less;

ii. current (as noted in §7507.F.3.b) Office of State Fire Marshal approval;

iii. current (as noted in §7507.F.3.b) Office of Public Health approval;

iv. current (as noted in §7507.F.3.b) city fire approval (if applicable);

v. a sketch or drawing of the premises including all rooms, bathrooms, common areas, kitchen, classrooms, buildings, and recreation areas;

vi. a list of staff to include staff's name and position;

vii. documentation of administrator's qualifications as listed in §7511A.2;

viii. copy of a bill of sale or lease agreement;

ix. documentation of a fingerprint-based satisfactory criminal record clearance for all staff, including owners and operators. CBC shall be dated no earlier than 30 days before the application has been received by the Licensing Section. The prior owner's documentation of satisfactory criminal background checks is not transferrable; and

x. documentation of a state central registry clearance as required in §7508.

b. The prior owner's current Office of State Fire Marshal, Office of Public Health, and city fire approvals are only transferrable for 60 calendar days. The new owner shall obtain approvals dated after the effective date of the new license from these agencies within 60 calendar days. The new owner will be responsible for forwarding the approval or extension from these agencies to the Licensing Section.

c. A licensing inspection shall be conducted within 60 calendar days from the effective date of licensure of the new owner to verify that the provider is in compliance with the minimum standards. At this time, licensing staff shall complete a measurement of the facility and recreational area. Upon review of the space, the capacity of the facility may be reduced or increased as verified by the new measurement of the facility.

d. All staff and youth's information shall be updated under the new ownership prior to or on the first day services are provided by the new owner.

e. If all information in §7507.F.3 is not received prior to or on the last day services are provided by the

existing owner, the new owner shall not operate until a license is issued. The new owner is not authorized to provide services until the licensure process is completed in accordance with §7507.B-C.

4. The JDF shall provide written notification to the department within 30 calendar days of changes in the administrator. A statement with supporting documentation of qualifications for the new administrator shall be submitted to DCFS.

G. Denial, Revocation, or Non-Renewal of License

1. An application for a license may be denied, a license may be revoked, or a license renewal may be denied for any of the following reasons:

a. cruelty or indifference to the welfare of the youth in care;

b. violation of any provision of the standards, rules, regulations, or orders of the department;

c. disapproval from any agency whose approval is required for licensing;

d. any validated instance of abuse and/or neglect as noted by inclusion on the state central registry if the owner is named or if the staff member who is named remains in the employment of the licensee;

e. the JDF is closed with no plans for reopening and no means of verifying compliance with minimum standards for licensure;

f. falsifying or altering documents required for licensure;

g. the owner, administrator, officer, board of directors member, or any person designated to manage or supervise the JDF or any staff providing care, supervision, or treatment to a youth of the JDF has been convicted of or pled guilty or nolo contendere to any offense listed in R.S. 15:587.1. A copy of a criminal record check performed by the Louisiana State Police (LSP) or other law enforcement entity, or by the Federal Bureau of Investigation (FBI), or a copy of court records in which a conviction or plea occurred, indicating the existence of such a plea or conviction shall create a rebuttable presumption that such a conviction or plea exists;

h. the JDF, after being notified that an officer, administrator, board of directors member, manager, supervisor or any staff has been convicted of or pled nolo contendere to any offense referenced above, allows such officer, director, or staff to remain employed, or to fill an office of profit or trust with the JDF. A copy of a criminal record check performed by the LSP or other law enforcement entity , or by the FBI, or a copy of court records in which a conviction or plea occurred, indicating the existence of such a plea or conviction shall create a rebuttable presumption that such a conviction or plea exists;

i. failure of the owner, administrator or any staff to report a known or suspected incident of abuse or neglect to child protection authorities;

j. revocation or non-renewal of a previous license issued by the state of Louisiana;

k. a history of non-compliance with licensing statutes or standards, including but not limited to failure to take prompt action to correct deficiencies, repeated citations for the same deficiencies, or revocation or denial of any previous license issued by DCFS;

l. failure to timely submit an application for renewal or to timely pay fees as required by law; and/or

m. operating any unlicensed JDF and/or program;

n. knowingly permit an individual with a justified (valid) finding of child abuse and/or neglect to be on the premises without being directly supervised by another paid employee of the facility, who has not disclosed that their name appears with a justified (valid) finding prior to receipt of the official notification from child welfare that the individual is listed on the state central registry;

o. permit an individual to be on the premises or to have access to children/youth when listed on the state central registry.

H. Disqualification of Facility and/or Provider

1. If a facility's license is revoked or not renewed due to failure to comply with state statutes or licensing rules or surrendered to avoid adverse action, DCFS may elect not accept a subsequent application from the provider for that facility, or any new facility, up to but not exceeding a period of 24 months after the effective date of revocation, non-renewal due to adverse action, or surrender to avoid adverse action, or for a period up to but not exceeding 24 months after all appeal rights have been exhausted, whichever is later (the disqualification period). The effective date of a revocation, denial, or non-renewal of a license shall be the last day for applying to appeal the action, if the action is not appealed. Any pending application by the same provider shall be treated as an application for a new facility for purposes of this section and may be denied and subject to the disqualification period. Any subsequent application for a license shall be reviewed by the secretary or designee prior to a decision being made to grant a license. DCFS reserves the right to determine, at its sole discretion, whether to issue any subsequent license.

2. If a provider has multiple licensed facilities and one of the facility's licenses is revoked or not renewed, a capacity increase shall not be granted at any of the existing licensed facilities for a minimum period of 24 months after the effective date of revocation or non-renewal, or for a minimum period of 24 months after all appeal rights have been exhausted, whichever is later.

3. Any voluntary surrender of a license by a provider facing the possibility of adverse action against its license (revocation or non-renewal) shall be deemed to be a revocation for disqualification purposes and shall trigger the same disqualification period as if the license had actually been revoked.

4. If the applicant has had a history of non-compliance, including but not limited to revocation of a previous license, operation without a license, or denial of one or more previous applications for licensure, DCFS may refuse to accept a subsequent application from that applicant for a minimum period of 24 months after the effective date of denial.

5. With respect to an application in connection with the revoked, denied, or not renewed facility, the disqualification period provided in this Section shall include any affiliate of the provider.

6. If a facility's license was revoked due solely to the disapproval from any agency whose approval is required for licensure or due solely to the facility being closed and there are no plans for immediate re-opening within 30 calendar days and no means of verifying compliance with minimum standards for licensure, the disqualification rule (or period) may not apply. DCFS may accept a subsequent application for a license that shall be reviewed by the secretary or designee prior to a decision being made to grant a license. DCFS reserves the right to determine, at its sole discretion, whether to issue any subsequent license.

7. In the event a license is revoked or renewal is denied, (other than for cessation of business or non-operational status), or voluntarily surrendered to avoid adverse action any owner, officer, member, manager, or administrator of such licensee may be prohibited from owning, managing, or operating another licensed facility for a period of not less than 24 months from the date of the final disposition of the revocation or denial action. The lapse of 24 months shall not automatically restore a person disqualified under this provision eligibility for employment. DCFS, at its sole discretion, may determine that a longer period of disqualification is warranted under the facts of a particular case.

I. Appeal Process

1. The DCFS Licensing Section, shall advise the administrator or owner in writing of the reasons for non-renewal or revocation of the license, or denial of an application, and the right of appeal. If the administrator or owner is not present at the facility, delivery of the written reasons for such action may be made to any staff of the facility. Notice to a staff shall constitute notice to the facility of such action and the reasons therefore. A request for appeal shall include a copy of the letter from the Licensing Section that notes the reasons for revocation, denial, or non-renewal, together with the specific areas of the decision the appellant believes to be erroneous and/or the specific reasons the decision is believed to have been reached in error, and shall be mailed to: Department of Children and Family Services, Appeals Section, P.O. Box 2944, Baton Rouge, LA 70821-9118.

2. A provider may appeal the revocation or non-renewal of a license by submitting a written request to appeal the decision along with a copy of the letter within 15 calendar days of receipt of the letter notifying of the revocation or non-renewal. Provider may continue to operate legally throughout the appeals process. Provider shall be issued a license noting that the provider is in the appeal process.

3. If provider's license expires during the appeal process, the provider shall submit a licensing renewal application and a copy of the satisfactory criminal background clearance for every owner. Each provider is solely responsible for obtaining the licensing application form. The licensing application and full licensure fee as well as copies of the criminal background clearances for all owners shall be received on or postmarked by the last day of the month in which the license expires, or the provider shall cease operation at the close of business by the expiration date noted on the license.

4. A provider may appeal the denial of an application for a license by submitting a written request to appeal the decision along with a copy of the letter within 30 calendar days of receipt of the letter notifying of the denial of application.

5. The DCFS Appeals Section shall notify the Division of Administrative Law of receipt of an appeal request. Division of Administrative Law shall conduct a hearing. The appellant will be notified by letter of the decision, either affirming or reversing the original decision.

6. If the decision of DCFS is affirmed or the appeal dismissed, the provider shall terminate operation of the JDF immediately. If the provider continues to operate without a license, the DCFS may file suit in the district court in the parish in which the facility is located for injunctive relief.

7. If the decision of DCFS is reversed, the license will be re-instated and the appellant may continue to operate.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:1110.

HISTORICAL NOTE: Promulgated by the Department of Children and Family Services, Division of Programs, Licensing Section, LR 38:1561 (July 2012), amended LR 38:3104 (December 2012), LR 39:1006 (April 2013), effective July 1, 2013, amended LR 42:395 (March 2016), amended by the Department of Children and Family Services, Licensing Section, LR 45:652 (May 2019), effective June 1, 2019.

§7508. State Central Registry

A. On November 1, 2018, and no later than November 9, 2018, provider shall submit a list of all owners/operators, contractors, and staff (paid, non-paid, and volunteers) employed/providing services as of November 1, 2018, to licensing management staff and shall attest that the information submitted is true and correct. The list shall be signed and dated by the director on file with the Licensing Section or by the owner. In addition, provider shall submit a list of all owners/operators, contractors, and staff (paid, non-paid, and volunteers) that have resided in another state within the previous five years which shall include the individual's name and state(s) in which the individual resided. The list shall be signed and dated by the director on file with the Licensing Section or by the owner. If no owner/operator, contractor, or staff resided in another state within the previous five years, provider shall submit a signed

statement attesting to such to Licensing Section management staff.

B. Current Owners as of November 1, 2018

1. Effective November 1, 2018, and in accordance with R.S. 15:1110.2, provider shall submit a state central registry request for each owner/operator including board members who meet the definition of an owner to DCFS child welfare to conduct a check of the state central registry. The request shall be submitted to child welfare no later than November 16, 2018. For owners/operators including board members who meet the definition of an owner who have resided in another state within the proceeding five years, provider shall submit a request to that state's child abuse and neglect registry no later than November 16, 2018. Documentation of request shall be available for review.

a. If the provider requests an out-of-state state central registry check and that state advises that they are unable to process the request due to statutory limitations, documentation of such shall be kept on file.

2. A search of the state central registry will determine if an owner/operator is currently listed on the state central registry as a perpetrator of valid (justified) abuse and/or neglect. No person who is recorded on any state central registry with a valid (justified) finding of abuse and/or neglect of a child shall be eligible to own, operate, or participate in the governance or management of the juvenile detention facility.

3. Provider shall submit a state central registry request to child welfare every five years from the issue date noted on the state central registry clearance form for all owners/operators who meet the definition of an owner and at any time upon the request of DCFS when reasonable suspicion exists that an individual may be listed on the state central registry. If an owner resides in another state and is licensed to operate a juvenile detention facility in the state of Louisiana, provider shall submit a state central registry request to that state's child abuse and neglect registry every five years from the issue date noted on the previous year's registry clearance form.

4. Upon notification from child welfare or any other state that the owner/operator is not listed on the state central registry, the provider shall maintain on file the notification(s) that his/her name does not appear on the registry.

5. Upon notification to the juvenile detention facility from child welfare or any other state that the owner/operator is listed on the state central registry, the owner/operator shall no longer be eligible to own, operate, or participate in the governance or management of the juvenile detention facility. The owner/operator can voluntarily close the business or if he/she chooses not to close the business, the license shall be immediately revoked. If the owner/operator is a member of the board or clergy, the provider shall submit a signed, dated statement to licensing within 24 hours or no later than the next business day indicating that the individual has resigned or been relieved of his position with the effective date of the resignation/removal. If this statement is not received by licensing within the aforementioned timeframe, the license shall be immediately revoked. Provider shall also submit documentation to licensing within seven calendar days verifying that the individual's name has been removed from the Secretary of State's website if owned by a corporation.

6. If after an initial state central registry clearance form is received by the juvenile detention facility from child welfare noting that the owner/operator is not listed on the state central registry and due to a new justified (valid) finding, the owner/operator receives a subsequent notice that he/she is listed on the state central registry and he/she advises the juvenile detention facility of the new information prior to receiving official notification from child welfare, licensing shall be notified within 24 hours or no later than the next business day, whichever is shorter. The owner/operator shall be directly supervised by a paid staff (employee) of the juvenile detention facility at any and all times when he/she is on the premises and/or in the presence of a child/youth. The employee responsible for supervising the individual shall not be a suspected perpetrator with a justified (valid) determination of abuse and/or neglect. Under no circumstances shall the owner/operator with the valid (justified) finding of abuse and/or neglect be left alone and unsupervised with a child/youth pending the official determination from child welfare that the individual is or is not listed on the state central registry.

7. State central registry clearances are not transferable between owners.

C. Prospective Owners Effective November 1, 2018

1. Effective November 1, 2018, and in accordance with R.S. 15:1110.2, an inquiry of the state central registry for all owners (including board members who meet the definition of an owner) and operators shall be conducted prior to a license being issued. For owners/operators, including board members who meet the definition of an owner who resided in another state within the proceeding five years, provider shall request a state central registry check and obtain clearance information from that state's child abuse and neglect registry. Louisiana state central registry clearances shall be dated no earlier than 45 days prior to the license being issued. Out-of-state state central registry clearances shall be dated no earlier than 120 days prior to license being issued.

a. If the provider requests an out-of-state state central registry check and that state advises that they are unable to process the request due to statutory limitations, documentation of such shall be kept on file.

2. A search of the state central registry will determine if the owner/operator is currently listed on the state central registry as a perpetrator of justified (valid) abuse and/or neglect. No person who is recorded on any state's child abuse and neglect registry with a justified (valid) finding of abuse and/or neglect of a child shall be eligible to own, operate, or participate in the governance or management of the juvenile detention facility.

3. Provider shall submit a state central registry request to child welfare every five years from the issue date noted on the state central registry clearance form for all owners/operators including board members who meet the definition of an owner and at any time upon the request of DCFS if reasonable suspicion exists that an individual may be listed on the state central registry. If an owner resides in another state and is licensed to operate a juvenile detention facility in the state of Louisiana, provider shall submit a state central registry request to that state's child abuse and neglect registry every five years from the issue date noted on the previous year's registry clearance form.

4. Upon notification from child welfare or any other state that the owner/operator(s) is not listed on the state central registry, the provider shall maintain on file the notification(s) that his/her name does not appear on the registry with a justified (valid) finding of abuse and/or neglect.

5. Upon notification to the provider from child welfare or any other state that the owner/operator is listed on the state central registry, the owner/operator shall no longer be eligible to own, operate, or participate in the governance or management of the juvenile detention facility. The owner/operator can voluntarily withdraw the application for licensure or if he/she chooses not to withdraw the application, the application shall be immediately denied. If the individual with the justified (valid) finding of abuse and/or neglect is a member of the board, the provider shall submit a signed, dated statement to licensing within 24 hours or no later than the next business day indicating that the board member has resigned his/her position on the board/been relieved of his position on the board with the effective date of the resignation/removal. Within seven calendar days, provider shall also submit documentation to licensing verifying that the individual's name has been removed from the Secretary of State's website to licensing if owned by a corporation. After receipt of the statement, the application for licensure may continue to be processed.

6. If after an initial state central registry clearance form is received by juvenile detention facility from child welfare noting that the owner/operator is not listed on the state central registry and due to a new valid finding against the owner/operator receives a subsequent notice (issued after the provider was licensed) that he/she is listed on the state central registry and the owner/operator advises the juvenile detention facility of the new information prior to his/her appeal rights being exhausted, licensing shall be notified within 24 hours or no later than the next business day, whichever is shorter. The owner/operator, shall be directly supervised by a paid staff (employee) of the juvenile detention facility at any and all times when he/she is on the premises or in the presence of a child/youth. The employee responsible for supervising the individual shall not be a suspected perpetrator with a justified (valid) determination of abuse and/or neglect. Under no circumstances shall the owner/operator, with the justified (valid) finding of abuse and/or neglect, be left alone and unsupervised with a child/youth pending the official determination from child welfare that the individual is or is not listed on the state central registry.

7. State central registry clearances are not transferable between owners.

D. Current Staff as of November 1, 2018

1. Effective November 1, 2018, and in accordance with R.S. 15:1110.2, provider shall submit a state central registry request for each currently employed staff (paid and non-paid staff and volunteers) to DCFS child welfare to conduct a check of the state central registry. The request shall be submitted to child welfare no later than November 16, 2018. For staff who have resided in another state within the proceeding five years, provider shall request information from that state's child abuse and neglect registry no later than November 16, 2018. Documentation of request shall be available for review.

a. If the provider requests an out-of-state state central registry check and that state advises that they are unable to process the request due to statutory limitations, documentation of such shall be kept on file.

2. A search of the state central registry will determine if the individual is currently listed on the state central registry as a perpetrator of justified (valid) abuse and/or neglect. No person who is recorded on any state's child abuse and neglect registry shall be eligible for employment or to provide volunteer services with the facility.

3. Provider shall submit a state central registry request to child welfare every five years from the issue date noted on the state central registry clearance form for all staff and at any time upon the request of DCFS if reasonable suspicion exists that a staff may be listed on the state central registry. If a person resides in another state and is employed at a juvenile detention facility in the state of Louisiana, provider shall submit a state central registry request to that state's child abuse and neglect registry every five years for this staff from the issue date noted on the previous year's registry check form.

a. If the provider requests an out-of-state state central registry check and that state advises that they are unable to process the request due to statutory limitations, documentation of such shall be kept on file.

4. Upon notification from child welfare or any other state that the staff is not listed on the state central registry, the provider shall maintain on file the notification(s) that the staff's name does not appear on the registry.

5. Upon notification to the provider from child welfare or any other state that the staff is listed on the state central registry, the staff shall no longer be eligible for employment with the juvenile detention facility. The provider shall submit a signed, dated statement to licensing within 24 hours or no later than the next business day indicating that the staff has been relieved of his/her position at the agency with the effective date of the termination. If this statement is not received by licensing within the

aforementioned timeframe, the license shall be immediately revoked.

6. If after the state central registry clearance form is received by provider from child welfare noting that the staff is not listed on the state central registry and due to a new valid finding the staff receives a subsequent notice that he/she is listed on the state central registry and advises the provider of the new information prior to his/her appeal rights being exhausted, licensing shall be notified within 24 hours or no later than the next business day, whichever is shorter. The staff with the justified (valid) finding of abuse and/or neglect, at any and all times when he/she is on the premises and/or in the presence of a child/youth, shall be directly supervised by another paid staff (employee) of the juvenile detention facility. The employee responsible for supervising the individual shall not be a suspected perpetrator with a justified (valid) determination of abuse and/or neglect. Under no circumstances shall the staff with the justified (valid) finding of abuse and/or neglect be left alone and unsupervised with a child/youth pending the official determination from child welfare that the individual is or is not listed on the state central registry.

7. State central registry clearances are not transferable between owners.

E. Prospective Staff Effective November 1, 2018

1. Effective November 1, 2018, and in accordance with R.S. 15:1110.2, an inquiry of the state central registry for all staff (paid, non-paid and volunteers) shall be conducted prior to employment being offered to a potential hire or volunteer services provided. For staff persons who have resided in another state within the proceeding five years, provider shall request a state central check from that state's child abuse and neglect registry prior to hire. While awaiting the results of the out of state central registry results, the individual shall be directly supervised by a paid staff (employee) of the juvenile detention facility at any and all times when he/she is on the premises and/or in the presence of a child/youth. The employee responsible for supervising the individual shall not also be awaiting the results of an out of state central registry clearance. Under no circumstances shall the individual awaiting out of state central registry results be left alone and unsupervised with a child/youth pending the official determination from that state that the individual is or is not listed on the state central registry. Louisiana state central registry clearances shall be dated no earlier than 45 days prior to the staff being present on the premises or having access to children/youth. Out-of-state state central registry clearances shall be dated no earlier than 120 days prior to license being issued.

a. If the provider requests an out-of-state state central registry check and that state advises that they are unable to process the request due to statutory limitations, documentation of such shall be kept on file.

2. A search of the state central registry will determine if the staff is currently listed on the state central registry as a perpetrator of justified (valid) abuse and/or neglect. No person who is recorded on any state's child abuse and neglect registry with a justified (valid) finding of abuse and/or neglect shall be eligible for employment or to provide volunteer services in a licensed juvenile detention facility.

3. Provider shall submit a state central registry request to child welfare every five years for staff from the issue date noted on the state central registry clearance form and at any time upon the request of DCFS if reasonable suspicion exists that a staff may be listed on the state central registry. If a person resides in another state and is employed at a juvenile detention facility in the state of Louisiana, provider shall submit a state central registry request to that state's child abuse and neglect registry every five years for this staff from the issue date noted on the previous year's registry clearance form.

a. If the provider requests an out-of-state state central registry check and that state advises that they are unable to process the request due to statutory limitations, documentation of such shall be kept on file.

4. Upon notification from child welfare or any other state that the staff is not listed on the state central registry, the provider shall maintain on file the notification(s) that the staff's name does not appear on the registry with a justified (valid) finding of abuse and/or neglect.

5. Upon notification to the provider from child welfare or any other state that the staff is listed on the state central registry, the staff shall no longer be eligible for employment or to provide volunteer services for the juvenile detention facility. The provider shall submit a signed, dated statement to licensing within 24 hours or no later than the next business day indicating that the staff with the justified (valid) finding of abuse and/or neglect will not be hired for a position at the agency. If this statement is not received by licensing within the aforementioned timeframe, the application shall be denied or license shall be immediately revoked.

6. If after the initial state central registry clearance form is received by the juvenile detention facility from child welfare noting that the staff is not listed on the state central registry and due to a new valid finding, the staff receives a subsequent notice that he/she is listed on the state central registry (issued after the provider was licensed) and advises the provider of the new information prior to his/her appeal rights being exhausted, licensing shall be notified within 24 hours or no later than the next business day, whichever is shorter. The staff with the justified (valid) finding of abuse and/or neglect shall be directly supervised by another paid staff (employee) of the juvenile detention facility at any and all times when he/she present on the premises and/or is in the presence of a child/youth. The employee responsible for supervising the individual shall not be a suspected perpetrator with a justified (valid) determination of abuse and/or neglect. Under no circumstances shall the staff with the justified (valid) finding of abuse and/or neglect be left alone and unsupervised with a child/youth pending the official determination from child welfare that the individual is or is not listed on the state central registry.

7. State central registry clearances are not transferable between owners.

F. Current Contractors and LDE Staff as of November 1, 2018

1. Effective November 1, 2018, and in accordance with R.S. 15:1110.2, provider shall submit a request to DCFS child welfare for a check of the state central registry for each contractor and LDE staff. The request shall be submitted to child welfare no later than November 16, 2018. For contractors and LDE staff who have resided in another state within the proceeding five years, provider shall request a state central registry check no later than November 16, 2018, and obtain clearance information from that state's child abuse and neglect registry. Documentation of request shall be available for review.

a. If the provider requests an out-of-state state central registry check and that state advises that they are unable to process the request due to statutory limitations, documentation of such shall be kept on file.

2. A search of the state central registry will determine if the individual is currently listed on the state central registry as a perpetrator of justified (valid) abuse and/or neglect. No person who is recorded on any state's child abuse and neglect registry shall be eligible to provide contracted services for the juvenile detention facility.

3. Provider shall submit a state central registry request to child welfare every five years for contractors and LDE staff from the issue date noted on the state central registry clearance form and at any time upon the request of DCFS when reasonable suspicion exists that an individual may be listed on the state central registry. If a contractor or LDE staff resides in another state and provides services in a juvenile detention facility in the state of Louisiana, provider shall submit a state central registry request to that state's child abuse and neglect registry every five years for this contractor or LDE staff from the issue date noted on the previous year's registry clearance form.

a. If the provider requests an out-of-state state central registry check and that state advises that they are unable to process the request due to statutory limitations, documentation of such shall be kept on file.

4. Upon notification from child welfare or any other state that the individual is not listed on the state central registry, the provider shall maintain on file the notification(s) that the individual's name does not appear on the registry with a justified (valid) finding of abuse and/or neglect.

5. Upon notification to the provider from child welfare or any other state that the individual is listed on the state central registry, the individual shall no longer be eligible to provide services for the juvenile detention facility. The provider shall submit a signed, dated statement to licensing within 24 hours or no later than the next business day indicating that the individual will no longer provide services to the agency with the effective date of the termination of services. If this statement is not received by licensing within the aforementioned timeframe, the license shall be immediately revoked.

6. If after the initial state central registry clearance form is received by provider from child welfare noting that the individual is not listed on the state central registry and due to a new valid finding the contractor or LDE staff receives a subsequent notice that he/she is listed on the state central registry and advises the provider of the new information prior to his/her appeal rights being exhausted, licensing shall be notified within 24 hours or no later than the next business day, whichever is shorter. The individual with the justified (valid) finding of abuse and/or neglect shall be directly supervised by a paid staff (employee) of the juvenile detention facility at any and all times when he/she is on the premises or in the presence of a child/youth. The employee responsible for supervising the individual shall not be suspected to be a perpetrator with a justified (valid) determination of abuse and/or neglect. Under no circumstances shall the contractor or LDE staff with the justified (valid) finding of abuse and/or neglect be left alone and unsupervised with a child/youth pending the official determination from child welfare that the individual is or is not listed on the state central registry.

7. State central registry clearances are not transferable between owners.

G. Prospective Contractors and LDE Staff Providing Services Effective November 1, 2018

1. Effective November 1, 2018, and in accordance with R.S. 15:1110.2, an inquiry of the state central registry for all contractors and LDE staff shall be conducted prior to providing contracted services or having access to children/youth. For contractors and LDE staff who have resided in another state within the proceeding five years, provider shall request a state central registry check from that state's child abuse and neglect registry prior to the individual providing services or having access to children/youth. While awaiting the results of the out of state central registry results, the individual shall be directly supervised by a paid staff (employee) of the juvenile detention facility at any and all times when he/she is on the premises and/or in the presence of a child/youth. The employee responsible for supervising the individual shall not also be awaiting the results of an out of state central registry clearance. Under no circumstances shall the individual awaiting out of state central registry results be left alone and unsupervised with a child/youth pending the official determination from that state that the individual is or is not listed on the state central registry. Louisiana state central registry clearances shall be dated no earlier than 45 days prior to the individual providing services or having access to children/youth. Out-of-state state central registry clearances shall be dated no earlier than 120 days prior to license being issued.

a. If the provider requests an out-of-state state central registry check and that state advises that they are unable to process the request due to statutory limitations, documentation of such shall be kept on file.

2. A search of the state central registry will determine if the individual is currently listed on the state central registry as a perpetrator of justified (valid) abuse and/or neglect. No person who is recorded on any state's child abuse and neglect registry with a justified (valid) finding of abuse and/or neglect shall be eligible to provide services for the juvenile detention facility.

3. Provider shall submit a state central registry request to child welfare every five years for contractors and LDE staff from the issue date noted on the state central registry clearance form and at any time upon the request of DCFS if reasonable suspicion exists that an individual may be listed on the state central registry. If a contractor or LDE staff resides in another state but provides services in a juvenile detention facility in the state of Louisiana, provider shall submit a state central registry request to that state's child abuse and neglect registry every five years for the contractor or LDE staff from the issue date noted on the previous year's registry clearance form.

4. Upon notification from child welfare or any other state that the individual is not listed on the state central registry, the provider shall maintain on file the notification(s) that the individual's name does not appear on the registry with a justified (valid) finding of abuse and/or neglect.

5. The state central registry clearance form shall be dated no earlier than 45 days of the individual being present on the juvenile detention facility premises or having access to children/youth.

6. Upon notification to the provider from child welfare or any other state that the contractor or LDE staff is listed on the state central registry, the individual shall no longer be eligible to provide services for the juvenile detention facility. The provider shall submit a signed, dated statement to licensing within 24 hours or no later than the next business day indicating that the individual with the justified (valid) finding of abuse and/or neglect has been relieved of his duties with the juvenile detention facility with the effective date of termination of services. If this statement is not received by licensing within the aforementioned timeframe, the license shall be immediately revoked.

7. If after the initial state central registry clearance form is received by provider from child welfare noting that the individual is not listed on the state central registry and due to a new valid finding, the contractor or LDE staff receives a subsequent notice that he/she is listed on the state central registry (issued after the provider was licensed) and advises the juvenile detention facility of the new information prior to his/her appeal rights being exhausted, licensing shall be notified within 24 hours or no later than the next business day, whichever is shorter. The individual with the justified (valid) finding of abuse and/or neglect shall be directly supervised by a paid staff (employee) of the juvenile detention facility at any and all times when he/she present on the premises and/or is in the presence of a child/youth. The employee responsible for supervising the individual shall not be a suspected perpetrator with a justified (valid) determination of abuse and/or neglect. Under no circumstances shall the individual with the valid (justified) finding of abuse and/or neglect be left alone and unsupervised with a child/youth pending the official determination from child welfare that the individual is or is not listed on the state central registry.

8. State central registry clearances are not transferable between owners.

H. Reasonable Suspicion

1. Any information received or knowledge acquired by the provider that a current owner/operator, contractor, LDE staff, volunteer, and/or staff, is a perpetrator of abuse and/or neglect after November 1, 2018, with a justified (valid) determination of abuse and/or neglect prior to receipt of official notification from child welfare, shall be verbally immediately reported to licensing management staff and followed up in writing no later than the close of business on the next business day. Prior to receipt of the official notification and immediately upon the knowledge that a justified (valid) finding has been issued by DCFS, the individual shall be directly supervised by a paid staff (employee) of the juvenile detention facility, at any and all times when he/she is present on the premises and/or is in the presence of a child/youth. The employee responsible for supervising the individual shall not be a suspected perpetrator with a justified (valid) determination of abuse and/or neglect. Under no circumstances shall the individual with the justified (valid) finding of abuse and/or neglect be left alone and unsupervised with a child/youth pending the official determination from child welfare that the individual is or is not listed on the state central registry.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:1110.2.

HISTORICAL NOTE: Promulgated by the Department of Children and Family Services, Licensing Section, LR 45:653 (May 2019), effective June 1, 2019.

§7509. Administration

A. Governing Body

1. The provider shall have an identifiable governing body with responsibility and authority over the policies, procedures, and activities of the facility.

2. The provider shall have documents identifying:

a. all members of the governing body;

b. business address;

c. the term of their membership, if applicable;

d. officers of the governing body, if applicable;

e. the terms of office of all officers, if applicable; and

f. officer responsibilities.

3. When the governing body is composed of more than one person, there shall be recorded minutes of all formal meetings and bylaws specifying frequency of meetings and quorum requirements.

B. Accessibility of Administrator

1. There shall be a single administrator, or designee, on site with authority and responsibility for the daily implementation and supervision of the facility's overall operation.

2. The administrator, or designee, shall be accessible to DCFS 24 hours per day, seven days per week.

C. Statement of Philosophy and Goals

1. The provider shall have a written statement describing its philosophy and goals.

D. Policies and Procedures

1. The provider shall have written policies and procedures approved by the administrator and/or governing body that address, at a minimum, the following:

a. detecting and reporting suspected abuse and neglect;

b. intake, to include classification procedures and release;

c. behavior support and intervention program;

d. youth grievance process;

e. retention of youth files;

f. emergency and safety procedures including medical emergencies;

g. staff intervention/restraints;

h. room isolation;

i. room confinement/due process;

j. incidents;

k. health care (dental, mental, and medical);

l. youth rights;

m. infection control to include blood borne pathogens;

n. confidentiality;

o. training;

p. environmental issues;

q. physical plant;

r. access issues;

s. safety;

t. security;

u. suicide prevention and emergency procedures in case of suicide attempt; and

v. sexual misconduct including but not limited to the following:

i. right to be free from sexual misconduct and from retaliation for reporting sexual misconduct;

ii. dynamics of sexual misconduct in confinement;

iii. common reactions of sexual misconduct victims; and

iv. policy for prevention and response to sexual misconduct.

2. The policies and procedures for operating and maintaining the facility shall be specified in a manual that is accessible to all staff and the public. The policies and procedures listed in Section 7509.D.1 above shall be reviewed at least annually, updated as needed, signed, and dated by the administrator or a representative of the governing body.

3. New or revised policies and procedures shall be disseminated to designated staff, volunteers, and to the youth, as applicable.

E. Facility Rules and Regulations

1. The rules and regulations shall be written in simple, clear, and concise language that most youth can understand and be specific to ensure that the youth know what is expected of them.

2. A staff member shall read the rules and regulations or provide a video presentation of these rules to each youth at the time of admission or within 24 hours after admission, and provide the youth a written copy.

3. Reasonable accommodations shall be made for those youth with limited English proficiency or disabilities.

4. A copy of the rules and regulations shall be posted in each of the common areas and in the living units.

5. Enforcement

a. Rule violations and corresponding staff actions shall be recorded in the youth's file.

b. Disciplinary sanctions shall be objectively administered and proportionate to the gravity of the rule and the severity of the violation.

c. If a youth is alleged to have committed a crime while in the facility, at the discretion of the administrator, the case may be referred to a law enforcement agency for possible investigation and/or prosecution.

d. If a case is referred to a law enforcement agency for possible investigation and/or prosecution, efforts shall be made as soon as possible to notify or attempt to notify the parent/guardian, and the attorney of record of the incident and referral.

F. Other Jurisdictional Approvals. The provider shall comply and show proof of compliance with all relevant standards, regulations, and requirements established by federal, state, local, and municipal regulatory bodies including annual approval by the following:

1. Office of Public Health, Sanitarian Services;

2. Office of the State Fire Marshal;

3. city fire department, if applicable; and

4. Department of Education, if applicable.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:1110.

HISTORICAL NOTE: Promulgated by the Department of Children and Family Services, Division of Programs, Licensing Section, LR 38:1564 (July 2012), amended LR 39:1007 (April 2013), effective July 1, 2013.

§7511. Facility Responsibilities

A. Personnel

1. Policies and Procedures

a. The provider shall have written policies and procedures that establish the provider's staffing, recruiting, and review procedures for staff. The personnel policy manual shall be available for staff and shall include a minimum of the following areas:

i. organization chart (table of organization);

ii. recruitment to include equal employment opportunity provisions;

iii. job descriptions and qualifications, and if applicable, a physical fitness policy;

iv. personnel files and performance reviews;

v. staff development, including in-service training;

vi. termination;

vii. employee/management relations, including disciplinary procedures and grievance and appeals procedures; and

viii. employee code of ethics.

b. A written policy and procedure shall require that each staff sign a statement acknowledging access to the policy manual.

2. Job Qualifications

a. The administrator shall meet one of the following qualifications upon hire:

i. a bachelor's degree plus two years experience relative to the population being served; or

ii. a master's degree; or

iii. six years of administrative experience in health or social services, or a combination of undergraduate education and experience for a total of six years.

b. Direct care staff shall be at least 18 years of age and have a high school diploma or equivalency at the time of hire.

3. Volunteers

a. If the provider utilizes volunteers, a written policy and procedure shall establish responsibility for the screening and operating procedures of the volunteer program.

b. Program Coordination

i. There shall be a staff member who is responsible for operating a volunteer service program for the benefit of youth.

ii. The provider shall specify the lines of authority, responsibility, and accountability for the volunteer service program.

c. Screening and Selection

i. Relatives of a youth shall not serve as a volunteer with the youth to whom they are related or in the facility where that youth is detained.

d. Professional Services

i. Volunteers shall perform professional services only when they are certified or licensed to do so.

e. Each volunteer shall have documentation of a state central registry clearance from child welfare as required in §7508.

B. Background Clearances

1. No staff of the facility shall be hired until such person has submitted his/her fingerprints to the Louisiana Bureau of Criminal Identification and Information so that it may be determined whether or not such person has a criminal conviction of a felony, or a plea of guilty, or nolo contendere of a felony, or a criminal conviction, or a plea of guilty or nolo contendere to any offense included in R.S. 15:587.1, or any offense involving a juvenile victim. CBC shall be dated no earlier than 30 days prior to the date of hire. If it is determined that such a person has a conviction or has entered a plea of guilty or nolo contendere to a crime listed in R.S. 15:587.1(C) or any offense involving a juvenile victim, that person shall not be hired. No staff shall be present on the JDF premises until such a clearance is received.

2. The provider shall contact all prior institutional employers for information on substantiated allegations of sexual abuse consistent with federal, state, and local laws.

3. A criminal record check shall be conducted on all volunteers that interact with the youth. No volunteer of the facility shall be allowed to work with youth until such person has submitted his/her fingerprints to the Louisiana Bureau of Criminal Identification and Information so that it may be determined whether or not such person has a criminal conviction, or a plea of guilty or nolo contendere to any offense included in R.S. 15:587.1, or any offense involving a juvenile victim. CBC shall be dated no earlier than 30 days prior to the volunteer being present on the JDF premises. If it is determined that such a person has a conviction or has entered a plea of guilty or nolo contendere to a crime listed in R.S. 15:587.1(C) or any offense involving a juvenile victim, that person shall not be allowed to volunteer with youth at the JDF. No volunteer shall be present on the JDF premises until such a clearance is received.

4. Documentation of a fingerprint-based satisfactory criminal background check (CBC) from Louisiana State Police is required for all qualified mental health professionals and all qualified medical professionals who interact with youth unless they are supervised by facility staff or court-appointed or requested by legal counsel. This check shall be obtained and dated prior to the individual being present in the facility or providing services for the facility. No person who has been convicted of, or pled guilty or nolo contendere to any offense included in R.S. 15:587.1, shall be present in any capacity in any licensed JDF. A criminal background check is satisfactory for purposes of this section if it shows no arrests for any enumerated offense or, if an arrest is shown on the background check, the background check or certified documentation from the jurisdiction of arrest affirmatively shows that the charges were disposed of without a conviction for any excludable offense. A plea of guilty or nolo contendere shall be deemed a conviction.

5. Documentation of a fingerprint-based satisfactory criminal background check (CBC) from Louisiana State Police is required for all Louisiana Department of Education staff or local school district staff that interact with youth. This check shall be obtained prior to the individual being present in the facility or providing services for the facility. No person who has been convicted of, or pled guilty or nolo contendere to any offense included in R.S. 15:587.1, shall be present in any capacity in any licensed JDF. CBC shall be dated prior to the individual being present on the premises. A criminal background check is satisfactory for purposes of this section if it shows no arrests for any enumerated offense or, if an arrest is shown on the background check, the background check or certified documentation from the jurisdiction of arrest affirmatively shows that the charges were disposed of without a conviction for any excludable offense. A plea of guilty or nolo contendere shall be deemed a conviction.

a. If an individual has previously obtained a certified copy of their criminal background check obtained from the Louisiana Bureau of Criminal Identification and Information Section of the Louisiana State Police, such certified copy shall be acceptable as meeting the CBC requirements. If an individual provides a certified copy of their criminal background check which he/she has previously obtained from the Louisiana State Police to the provider, this criminal background check shall be accepted for a period of one year from the date of issuance of the certified copy. An original certified copy or a photocopy of the certified copy shall be kept on file at the JDF. Prior to the one-year expiration of the certified criminal background check, a new fingerprint-based satisfactory criminal background check shall be obtained from Louisiana State Police in order for the individual to continue providing services at the JDF. If the clearance is not obtained prior to the one-year expiration of the certified criminal background check, the individual is no longer allowed on the premises until a clearance is received;

b. For the first school year that a LDE staff person or local school district staff person provides services to a child, that LDE staff person or local school district staff person shall provide documentation of a fingerprint based satisfactory criminal record check as required by §7511.B.5 or shall provide the original, completed, signed, notarized, DCFS-approved affidavit to the provider prior to being present and working with a child or children at the facility. A photocopy of the original affidavit shall be kept on file at the facility. This affidavit will be acceptable for the entire school year noted in the text of the affidavit and expires on May 31 of the current school year. For all subsequent school years following the first year, the LDE staff or local school district staff person shall present a new affidavit or an original, completed, and signed letter from the superintendent of the school district or designee or superintendent of LDE or designee. The provider will need to view the original letter presented by the LDE staff or local school district staff person and keep a photocopy of the original letter on file at the facility. This letter will be acceptable for the entire school year noted in the text of the letter and expires on May 31 of the current school year. The letter is acceptable only if the following conditions are met:

i. the LDE staff person or local school district staff person has remained employed with the same school district as noted in the affidavit the provider has on file;

ii. the provider has maintained a copy of the affidavit on file; and

iii. the letter is presented on school district letterhead or LDE letterhead and signed by the superintendent of the school district or designee or superintendent of LDE or designee.

c. Documentation of a state central registry clearance for all Louisiana Department of Education staff or local school district staff that interact with youth following the procedure outlined in §7508.

6. Documentation of a state central registry clearance from child welfare as required in §7508.

C. Health Screening

1. All staff shall receive a physical examination that includes screening for infectious and contagious diseases. Documentation of this examination shall be dated within three months prior to the staff's date of hire or within 30 days after staff's date of hire. Physical examinations shall be required every three years.

D. Performance Reviews

1. The provider shall conduct an annual written performance review of each staff and the results shall be discussed with the staff.

E. Drug-free Workplace

1. The provider shall have a written policy and procedure regarding a drug-free workplace for all staff.

F. Training and Staff Development

1. Policy and Procedure

a. The provider shall have written policies and procedures that require training and staff development programs, including training requirements for all categories of personnel.

b. Program Coordination and Supervision. The program coordinator shall ensure that the provider's staff development and training program is planned, coordinated and supervised.

2. Orientation

a. All new direct care staff and support staff that have direct contact with youth shall receive a minimum of 40 hours of orientation training before assuming any job duties. This training shall include, at a minimum, the following:

i. philosophy, organization, program, practices and goals of the facility;

ii. specific responsibilities of assigned job duties;

iii. administrative procedures;

iv. emergency and safety procedures including medical emergencies;

v. youth's rights;

vi. detecting and reporting suspected abuse and neglect;

vii. infection control to include blood borne pathogens;

viii. confidentiality;

ix. reporting of incidents;

x. intake to include classification procedures and release;

xi. discipline and due process rights of incarcerated youth;

xii. access to health care (dental, mental, and medical);

xiii. crisis/conflict management, de-escalation techniques, and management of assaultive behavior, including when, how, what kind, and under what conditions physical force, mechanical restraints, and room confinement, isolation may be used;

xiv. suicide prevention and emergency procedures in case of suicide attempt;

xv. sexual misconduct including but not limited to the following:

(a). youth's rights to be free from sexual misconduct, and from retaliation for reporting sexual misconduct;

(b). dynamics of sexual misconduct in confinement;

(c). common reactions of sexual misconduct victims; and

(d). agency policy for prevention and response to sexual misconduct.

3. First Year Training

a. Direct care staff shall receive an additional 120 hours of training during their first year of employment. This training shall include, at a minimum, the following:

i. within the first 60 calendar days of employment:

(a). adolescent development for males and females; and

(b). first aid/CPR;

ii. within the first year of employment:

(a). classification procedures to include intake screenings;

(b). an approved crisis/conflict intervention program;

(c). facility's policy and procedures for suicide prevention, intervention and response;

(d). lesbian, gay bisexual, transgender specific, cultural competence and sensitivity training;

(e). communication effectively and professionally with all youth;

(f). sexual misconduct including but not limited to the following:

(i). youth's rights to be free from sexual misconduct, and from retaliation for reporting sexual misconduct;

(ii). dynamics of sexual misconduct in confinement;

(iii.)common reactions of sexual misconduct victims; and

(iv). the agency policy for prevention and response to sexual misconduct;

(g). key control;

(h). universal safety precautions;

(i). effective report writing; and

(j). needs of youth with behavioral health disorders and intellectual disabilities and medication.

b. All support (non-direct care) staff shall receive an additional 40 hours of training during their first year of employment. The training shall include, at a minimum, the following:

i. philosophy, organization, program, practices and goals of the facility;

ii. specific responsibilities of assigned job duties;

iii. youth's rights;

iv. detecting and reporting suspected abuse and neglect (mandatory reporting guidelines);

v. infection control to include blood borne pathogens;

vi. confidentiality;

vii. reporting of incidents;

viii. discipline and due process rights of incarcerated youth;

ix. sexual misconduct including but not limited to the following:

(a). youth's rights to be free from sexual misconduct, and from the retaliation for reporting sexual misconduct;

(b). dynamics of sexual misconduct in confinement;

(c). common reactions of sexual misconduct victims; and

(d). agency policy for prevention and response to sexual misconduct;

x. first aid/ CPR; and

xi. basic safety and security practices.

4. Annual Training

a. All direct care staff and support staff shall receive a minimum of 40 hours of training annually. This training shall include, at a minimum, the following:

i. classification procedures to include intake screenings;

ii. an approved crisis/conflict intervention program;

iii. facility's policy and procedures for suicide prevention, intervention and response;

iv. communication effectively and professionally with all youth;

v. sexual misconduct including but not limited to the following:

(a). youth's rights to be free from sexual misconduct, and from retaliation for reporting sexual misconduct;

(b). dynamics of sexual misconduct in confinement;

(c). common reactions of sexual misconduct victims-add additional; and

(d). the agency policy for prevention and response to sexual misconduct;

vi. key control;

vii. universal safety precautions;

viii. discipline and due process rights of incarcerated youth;

ix. detecting and reporting suspected abuse and neglect (mandatory reporting guidelines);

x. effective report writing; and

xi. needs of youth with behavioral health disorders and intellectual disabilities and medication.

5. Volunteer Training

a. All volunteers shall receive notification and acknowledge in writing their agreement to abide by the following prior to their beginning work and updated annually:

i. philosophy and goals of the facility;

ii. specific responsibilities and limitations;

iii. youth's rights;

iv. detecting and reporting suspected abuse and neglect;

v. confidentiality;

vi. reporting of incidents;

vii. discipline and due process rights of incarcerated youth;

viii. sexual misconduct including but not limited to the following:

(a). youth's rights to be free from sexual misconduct, and from retaliation for reporting sexual misconduct;

(b). dynamics of sexual misconduct in confinement;

(c). common reactions of sexual misconduct victims-add additional; and

(d). the agency policy for prevention and response to sexual misconduct.

ix. basic safety and security practices.

6. All staff employed longer than 60 days shall maintain documentation of current certification in first aid and CPR.

G. Staffing Requirements

1. The provider shall have sufficient available staff to meet the needs of all of the youth.

2. At least two direct care staff shall be on duty at all times in the facility.

3. There shall be a minimum of 1 to 8 ratio of direct care staff to youth during the hours that youth are awake.

4. A minimum of one direct care staff shall be maintained in rooms when educational services are being provided, with additional staff in close proximity of the educational service rooms in order to intervene, if necessary.

5. Youth shall be checked by a staff person at least every 15 minutes when in sleeping rooms, whether asleep or awake. Documentation of checks shall be maintained.

6. Direct care staff who are needed to satisfy the staff to youth ratio shall be able to directly see, hear, and speak with the youth when youth are not in their sleeping rooms.

7. There shall be a minimum of 1 to 16 ratio of direct care staff to youth during the hours that youth are asleep.

8. Direct care staff of one gender shall be the sole supervisor of youth of the same gender during showers, physical searches, pat downs, or during other times in which personal hygiene practices or needs would require the presence of a direct care staff of the same gender.

9. Video and audio monitoring devices shall not substitute for supervision of youth.

10. The provider shall provide youth that have limited English proficiency with meaningful access to all programs and activities. The provider shall provide reasonable modifications to policies and procedures to avoid discrimination against persons with disabilities.

H. Record Keeping

1. Personnel Files

a. The provider shall maintain a current, accurate, confidential personnel file on each staff. This file shall contain, at a minimum, the following:

i. an application for employment, including the resume of education, training, and experience, including evidence of professional or paraprofessional credentials/certifications according to state law, if applicable;

ii. a criminal background check in accordance with state law;

iii. documentation of staff orientation and annual training;

iv. staff hire and termination dates;

v. documentation of staff current driver's license, if applicable;

vi. annual performance evaluations;

vii. any other information, reports, and notes relating to the individual's employment with the facility; and

viii. documentation of a state central registry clearance for all owners and staff as required in §7508.

2. Youth Files

a. Active Files. The provider shall maintain active files for each youth. The files shall be maintained in an accessible, standardized order and format. The files shall be current and complete and shall be maintained in the facility in which the youth resides. The provider shall have sufficient space, facilities, and supplies for providing effective storage of files. The files shall be available for inspection by the department at all times. Youth files shall contain at least the following information:

i. youth's name, date of birth, social security number, previous home address, sex, religion, and birthplace;

ii. dates of admission and discharge;

iii. other identification data including documentation of court status, legal status or legal custody, and who is authorized to give consents;

iv. name, address, and telephone number of the legal guardian(s), and parent(s), if appropriate;

v. name, address, and telephone number of a physician and dentist;

vi. the pre-admission assessment and admission assessment;

vii. youth's history including family data, educational background, employment record, prior medical history, and prior placement history;

viii. a copy of the physical assessment report;

ix. continuing record of any illness, injury, or medical or dental care when it impacts the youth's ability to function or impacts the services he or she needs;

x. reports of any incidents of abuse, neglect, or incidents, including use of time out, personal restraints, or seclusion;

xi. a summary of releases from the facility;

xii. a summary of court visits;

xiii. a summary of all visitors and contacts including dates, name, relationship, telephone number, address, the nature of such visits/contacts and feedback from the family;

xiv. a record of all personal property and funds, which the youth has entrusted to the provider;

xv. reports of any youth grievances and the conclusion or disposition of these reports;

xvi. written acknowledgment that the youth has received clear verbal explanation and copies of his/her rights, the facility rules, written procedures for safekeeping of his/her valuable personal possessions, written statement explaining his/her rights regarding personal funds, and the right to examine his/her file;

xvii. all signed informed consents; and

xviii. a release order, as applicable.

b. Confidentiality and Retention of Youth Files

i. The provider shall maintain records in accordance with public records and confidentiality laws.

ii. The provider shall maintain the confidentiality and security of all records. Staff shall not disclose or knowingly permit the disclosure of any information

concerning the youth or his/her family, directly or indirectly, to any unauthorized person.

I. Incident Reporting

1. Critical Incidents. The provider shall have written policies and procedures for documenting, reporting, investigating, and analyzing critical incidents.

a. The provider shall report any of the following critical incidents to parties noted in Section 7511.I.1.b below:

i. suspected abuse;

ii. suspected neglect;

iii. injuries of unknown origin;

iv. death;

v. attempted suicide;

vi. escape;

vii. sexual assault;

viii. any serious injury that occurs in a facility, including youth on youth assaults, that requires medical treatment; and/or

ix. injury with substantial bodily harm while in confinement, during transportation or during use of physical intervention.

b. The administrator or designee shall immediately report all critical incidents to the:

i. parent/legal guardian;

ii. law enforcement authority, if appropriate, in accordance with state law;

iii. DCFS Licensing Section management staff;

iv. defense counsel for the youth; and

v. judge of record.

c. At a minimum, the incident report shall contain the following:

i. date and time the incident occurred;

ii. a brief description of the incident;

iii. where the incident occurred;

iv. any youth or staff involved in the incident;

v. immediate treatment provided, if any;

vi. symptoms of pain and injury discussed with the physician if applicable;

vii. signature of the staff completing the report;

viii. name and address of witnesses;

ix. date and time the legal guardian, and other interested parties were notified;

x. any follow-up required;

xi. actions to be taken in the future to prevent a reoccurrence; and

xii. any documentation of supervisory and administrative reviews.

d. Investigation of Abuse and Neglect

i. The provider shall submit a final written report of the incident to Licensing, if indicated, as soon as possible but no later than five calendar days following the incident.

ii. An internal investigation shall be conducted of any allegations involving staff and/or youth of abuse or neglect of a youth.

iii. Until the conclusion of the internal investigation, any person alleged to be a perpetrator of abuse or neglect may be placed on administrative leave or may be reassigned to a position having no contact with the complainant or any youth in the facility, relatives of the alleged victim, participants in a juvenile justice program, or individuals under the jurisdiction of the juvenile court. The provider shall take any additional steps necessary to protect the alleged victim and witnesses.

iv. At the conclusion of the internal investigation, the administrator or designee shall take appropriate measures to provide for the safety of the youth.

v. In the event the administrator is alleged to be a perpetrator of abuse or neglect, the governing body or commission shall:

(a). conduct the internal investigation or appoint an individual who is not a staff of the facility to conduct the internal investigation;

(b). place the administrator on administrative leave, until the conclusion of the internal investigation, or ensure the administrator has no contact with the youth in the facility, relatives of the alleged victim, participants in a youth justice program, or individuals under the jurisdiction of the youth court.

vi. Copies of all written reports shall be maintained in a central incident file.

J. Abuse and Neglect

1. Provider shall ensure staff adheres to a code of conduct that prohibits the use of physical abuse, sexual abuse, profanity, threats, or intimidation. Youth shall not be deprived of basic needs, such as food, clothing, shelter, medical care, and/or security.

2. In accordance with article 603 of the *Louisiana Children's Code*, all staff employed by a juvenile detention facility are mandatory reporters. In accordance with article 609 of the *Louisiana Children's Code*, a mandatory reporter who has cause to believe that a child's physical or mental health or welfare is endangered as a result of abuse or neglect or was a contributing factor in a child's death shall report in accordance with article 610 of the *Louisiana Children's Code.*

K. Grievance Procedure

1. The provider shall have a written policy and procedure which establishes the right of every youth and the youth's legal guardian(s) to file grievances without fear of retaliation.

2. The written grievance procedure shall include, but not be limited to:

a. a formal process for the youth and the youth's legal guardian(s) to file grievances that shall include procedures for filing verbal, written, or anonymous grievances. If written, the grievance form shall include the youth's name, date, and all pertinent information relating to the grievance;

b. a formal process for the provider to communicate with the youth about the grievance within 24 hours and to respond to the grievance in writing within five calendar days;

c. a formal appeals process for provider's response to grievance.

3. Assistance by staff not involved in the issue of the grievance shall be provided if the youth requests.

4. Documentation of any youth's or youth's legal guardian(s) grievance and the conclusion or disposition of these grievances shall be maintained in the youth's file. This documentation shall include any action taken by the provider in response to the grievance and any follow up action involving the youth.

5. The provider shall maintain all verbal, written, and/or anonymous grievances filed and the manner in which they were resolved in a central grievance file.

6. A copy of the grievance and the resolution shall be given to the youth, and a copy shall be kept in a central grievance file.

L. Quality Improvement

1. The provider shall have a written policy and procedure for maintaining a quality improvement program to include:

a. systematic data collection and analysis of identified areas that require improvement;

b. objective measures of performance;

c. periodic review of youth files;

d. quarterly review of incidents and the use of personal restraints and seclusion to include documentation of the date, time and identification of youth and staff involved in each incident; and

e. implementation of plans of action to improve in identified areas.

2. Documentation related to the quality improvement program shall be maintained for at least two years.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:1110.

HISTORICAL NOTE: Promulgated by the Department of Children and Family Services, Division of Programs, Licensing Section, LR 38:1565 (July 2012), amended LR 39:1007 (April 2013), effective July 1, 2013, amended LR 42:396 (March 2016), amended by the Department of Children and Family Services, Licensing Section, LR 45:657 (May 2019), effective June 1, 2019.

§7513. Admission and Release

A. Limitations for Admission

1. Pre-admission criteria shall limit eligibility to youth likely to commit a serious offense pending resolution of their case, youth likely to fail to appear in court or youth held pursuant to a specific court order for detention.

2. Status offenders shall be detained at the facility only in accordance with state law, or if they have violated a valid court order and have received due process protections and consideration of less restrictive alternatives to include as required by the Federal Juvenile Justice and Delinquency Prevention Act.(OJJDP Act 42 USC 5633)

3. Youth with serious medical, mental health needs, or youth who are detectably intoxicated are not admitted into the facility unless and until appropriate medical professionals clear them. Youth transferred from or cleared by outside medical or mental health facilities are admitted only if the facility has the capacity to provide appropriate ongoing care.

B. Intake on Admission

1. The provider shall have written policies and procedures regarding admission to the facility. Upon admission to the facility, the following shall be adhered to:

a. staff shall review inactive files from any previous admission to obtain history on the youth;

b. each youth shall be informed of the process at the initiation of intake;

c. staff shall review paperwork with law enforcement; and

d. staff shall conduct electronic security wand scanner, frisk, and search of the youth.

2. Youth shall be processed into the facility within four hours of admission. Intake for the juvenile justice system shall be available either onsite or through on-call arrangements 24 hours a day, 7 days a week.

3. Screenings shall include approaches that ensure that available medical/mental health services are explained to youth in a language suitable to his/her age and understanding.

4. All screenings shall be conducted by a qualified medical/mental health professional or staff who have received instruction and training by a qualified medical/mental health professional.

5. Screenings conducted by trained staff shall be reviewed by a qualified medical/ mental health professional within 72 hours of admission.

6. The screenings shall occur within two hours of presentation for admission.

7. The screenings shall be in a confidential setting.

8. When a youth shows evidence of suicide risk, the facility's written procedures governing suicide intervention shall be immediately implemented.

C. Admission Screenings

1. Mental Health Screening

a. The provider shall use a standardized, validated mental health screening tool to identify youth who may be at risk of suicide or who may need prompt mental health services. Provider will ensure that persons administering the mental health screening tool are annually trained/re-trained in its administration and the use of its scores, as recommended by the author of the screening tool if more frequent than annually.

b. All youth whose mental health screening indicates the need for an assessment shall be seen by a qualified mental health professional within 24 hours of admission.

2. Medical Screening

a. The screening shall include:

i. inquiry into current and past illnesses, recent injuries, and history of medical and mental health problems and conditions, including:

(a). medical, dental, and psychiatric/mental health problems;

(b). current medication;

(c). allergies;

(d). use of drugs or alcohol, including types, methods of use, amounts, frequency, time of last use, previous history of problems after ceased use, and any recent hiding of drugs in his/her body;

(e). recent injuries (e.g. at or near the time of arrest);

(f). pregnancy status; and

(g). names and contact information for physicians and clinics treating youth in the community.

b. During this screening, staff shall observe:

i. behavior and appearance, indications of alcohol or drug intoxication, state of consciousness, and sweating;

ii. indications of possible disabilities to include but not limited to vision, hearing, intellectual disabilities and mobility limitations;

iii. conditions of skin, bruises, lesions, yellow skin, rash, swelling, and needle marks or other indications of drug use or physical abuse; and

iv. tattoos and piercings.

c. After the screening, staff shall refer the following youth for needed services:

i. youth who are identified in the screening as requiring additional medical services shall be referred and receive an expedited medical follow-up within 24 hours or sooner if medically necessary;

ii. when a youth shows evidence or alleges abuse or neglect by a parent, guardian, or relative, a staff member shall immediately contact law enforcement and DCFS. In situations where a youth shows evidence of or alleges abuse by law enforcement officials, the parish district attorney's office shall be notified.

D. Processing

1. Staff shall document in the youth's file that the youth was allowed to attempt to contact parents/guardians by phone within six hours of arrival at the facility.

2. The provider shall provide the youth food regardless of the time of arrival.

3. Within 24 hours of admission, youth shall receive a written and oral orientation and documentation of the orientation shall be placed in the youth's file.

4. The orientation shall include the following:

a. identification of key staff and roles;

b. policy on contraband and searches;

c. due process protections;

d. grievance procedures;

e. access to emergency and routine health and mental health care;

f. housing assignments;

g. youth rights;

h. access to education, programs, and recreational materials;

i. policy on use of force, restraints, and isolation;

j. behavior management system;

k. emergency procedures;

l. how to report problems at the facility such as abuse, feeling unsafe, and theft;

m. non-discrimination policies;

n. a list of prohibited practices; and

o. facility rules and regulations.

5. Youth shall be showered and given uniforms and toiletry articles. The youth's own clothing may be laundered, then stored and ready for their release. If the youth refuses to have clothing laundered, there shall be documentation in the youth's file of the refusal.

6. Youth admitted to the facility shall be presented in court for a continued custody hearing within 72 hours or released as required in CC Article 819.

E. Admission Assessments

1. Mental Health Assessment

a. Youth shall receive a mental health assessment performed by a qualified mental health professional within 72 hours unless the youth was assessed within 24 hours of admission. The assessment shall include:

i. history of psychiatric hospitalizations and outpatient treatment (including all past mental health diagnoses);

ii. current and previous use of psychotropic medication;

iii. suicidal ideation and history of suicidal behavior;

iv. history of drug and alcohol use;

v. history of violent behavior;

vi. history of victimization or abuse (including sexual victimization and domestic violence);

vii. special education history;

viii. history of cerebral trauma or seizures;

ix. emotional response to incarceration and arrest; and

x. history of services for intellectual/developmental disabilities.

2. Medical Assessment

a. Youth shall receive a medical assessment, performed by a qualified medical professional within 72 hours following admission. The medical assessment shall include the following:

i. a review with the parent or legal guardian (phone or in person) of the physical issues of the youth;

ii. detailed history of potentially preventable risks to life and health including smoking, drug and alcohol use, unsafe sexual practices, eating patterns, and physical activity;

iii. contact with physician(s) in the community as needed to ensure continuity of medical treatment;

iv. record of height, weight, pulse, blood pressure, and temperature;

v. vision and hearing screening;

vi. testing for pregnancy;

vii. review of screening results and collection of additional data to complete the medical, dental, and mental health histories;

viii. review of immunization history, if available, and attempt to notify parent(s)/guardian(s) of the needed immunization records;

ix. testing for sexually transmitted infections, consistent with state recommendations;

x. review of the results of medical examinations and tests, and initiation of treatment when appropriate; and

xi. identification of signs and symptoms of victimization or abuse including sexual victimization and domestic violence.

F. Population Management

1. The facility staff shall review the institutional population on a daily basis to ensure that the institutional population does not exceed its capacity.

G. Classification Decisions

1. The provider shall have written policies and procedures regarding housing and programming decisions. The administrator, or designee, will review, on a weekly basis, the process and any decisions that depart from established polices, and shall document such review and any departure from those policies.

2. Classification policies shall include potential safety concerns when making housing and programming decisions including:

a. separation of younger from older youth;

b. physical characteristics to include height, weight, and stature;

c. separation of genders;

d. separation of violent from non-violent youth;

e. maturity;

f. presence of mental or physical disabilities;

g. suicide risk;

h. alleged sex offenses;

i. criminal behavior;

j. specific information about youth who need to be separated from each other (not just general gang affiliation); and

k. identified or suspected risk to include medical, escape, and security.

3. Youth shall be assigned to a room based on classification and will be reclassified if changes in behavior or status are observed.

4. Decisions for housing or programming of youth who are or are perceived to be gay, lesbian, bisexual, or transgender youth on the basis of their actual or perceived sexual orientation shall be made on an individual basis in consultation with the youth and the reason(s) for the particular treatment shall be documented in the youth's file. The administrator or designee shall review each decision.

5. When necessary, staff shall develop individualized classification decisions to provide for the safety of particular youth.

H. Release Procedures

1. The provider shall have a written policy and procedure for releasing youth to include, but not limited to, the following:

a. verification of identity of the person who the youth is being released to;

b. verification that a release order is obtained;

c. completion of release arrangements, including the person or agency to whom the youth is to be released;

d. return of personal property;

e. completion of any pending action, such as claims for damaged or lost possessions;

f. notification of arrangements for medical follow-up when needed, including continuity of medications; and

g. instructions on forwarding of mail.

2. The provider shall have a written policy and procedure for the temporary release of youth for escorted and unescorted day leaves into the community for the following:

a. needed medical and dental care;

b. to visit ill family members or attend funerals; and

c. to participate in community affairs and/or events that would have a positive influence on the youth.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:1110.

HISTORICAL NOTE: Promulgated by the Department of Children and Family Services, Division of Programs, Licensing Section, LR 38:1569 (July 2012), amended LR 42:398 (March 2016).

§7515. Youth Protections

A. Rights

1. The provider shall have written policies and procedures that ensure each youth's rights are guaranteed and protected.

2. A youth shall not be subjected to discrimination based on race, national origin, religion, sex, sexual orientation, gender identity, or disability.

3. A youth shall not be subjected to supervision or control by other youth. Supervision is to be exercised only by facility staff.

4. A youth has the right to be free from physical, verbal, or sexual assault by other youth or staff.

5. A youth shall not be required to work unless the activity is related to general housekeeping or as required by a court order or deferred prosecution agreement for community service restitution.

6. A youth shall not participate in medical, pharmaceutical, or cosmetic experiments.

7. A youth has the right to consult with clergy and participate in religious services in accordance with his/her faith, subject to the limitations necessary to maintain facility security and control. Youth shall not be forced to attend religious service and disciplinary action shall not be taken toward the youth who choose not to participate in such services.

8. Each youth shall be fully informed of these rights and of all rules and regulations governing youth conduct and responsibilities, as evidenced by written acknowledgment, at the time of admission of the receipt of a copy of youth rights, and when changes occur.

B. Access Issues

1. Telephone Usage

a. The provider shall have a written policy and procedure regarding telephone use.

b. Youth shall be permitted to have unrestricted and confidential telephone contact with professionals, such as attorneys, probation officers, and caseworkers.

c. In addition to the persons identified above in Section 7515.B.1.b, the youth shall be allowed a minimum of two free telephone calls per week, 10 minutes each to persons on the youth's approved list.

2. Mail/Correspondence

a. The provider shall have a written policy and procedure regarding youth sending and receiving mail/correspondence.

b. A youth's written correspondence shall not be opened or read by staff unless the administrator, or designee, has compelling reasons to believe the correspondence contains material which presents a clear and present danger to the health or safety of the youth, other persons, or the security of the facility. A record shall be maintained in the youth's file when mail is read by staff, documenting the specific reason why the mail was read, and signed by the administrator or designee. Mail may be opened by staff only in the presence of the youth with inspection limited to searching for contraband.

c. Written communication with specific individuals may be restricted by:

i. the youth's court ordered rules of probation or parole;

ii. the facility's rules of separation; or

iii. a specific list of individuals furnished by the youth's parent/legal guardian indicating individuals who should not communicate with the youth.

d. Incoming correspondence from a restricted source shall be returned unopened to the sender. When mail is withheld from the youth, the reasons shall be documented in the youth's file and the youth shall be informed.

e. Youth shall be provided writing material and postage for the purpose of correspondence. Outgoing mail shall be sealed by the youth in the presence of staff.

f. Provisions shall be made to forward mail when the youth is released or transferred.

g. Money received in the mail shall be held for the youth in his/her personal property inventory or returned to the sender.

h. Incoming legal mail shall not be opened, read, or copied.

3. Visitation

a. The parent/legal guardian shall be allowed to visit youth unless prohibited by the court.

b. Visits with youth by attorneys and/or their representatives, and other professionals associated with the youth shall not be restricted and shall be conducted in private such that confidentiality may be maintained.

c. Visits to youth may be restricted if it is determined by the administrator, or designee, that allowing the visit would pose a threat to the safety or security of the staff, other youth, visitors, or the facility. When a visit is restricted, the visitor(s) shall be notified at the time the determination is made. The reason why the visit was restricted shall be documented in the youth's file.

d. The visitors of the youth shall be provided a written copy of the visitation policy and schedule.

e. Visitation rules shall be posted in public view.

f. Other individuals may be granted visits at the discretion of the administrator or his/her designee.

g. Visitors who are under the influence of alcohol or drugs, in possession of contraband, exhibiting disruptive behavior, wearing improper attire, or unable to produce valid identification shall not be permitted to visit, and the occurrence shall be documented in the youth's file.

h. A record shall be maintained in the youth's file of the names of all persons who visit the youth.

i. A record shall be maintained in the youth's file of the names of individuals prohibited to visit with the youth and the reason(s) for the denial.

j. Visiting hours shall be regularly scheduled so that visitors have an opportunity to visit at set times at least twice a week.

k. Special visiting arrangements shall be made for visitors who cannot visit the youth during the regular visiting schedule.

l. Youth who do not have visitors shall not be routinely locked in their rooms during visiting hours.

C. Prohibited Practices

1. The provider shall have a written list of prohibited practices by staff. The following practices are prohibited:

a. the use of corporal punishment by any staff. Corporal punishment does not include the right of staff to protect themselves or others from attack, nor does it include the exercise of approved physical restraint as may be necessary to protect a youth from harming himself/herself or others;

b. any act or lack of care that injures or significantly impairs the health of any youth, or is degrading or humiliating in any way;

c. placement of a youth in unapproved quarters;

d. forcing a youth to perform any acts that could be considered cruel or degrading;

e. delegation of the staff's authority for administering discipline and privileges to other youth in the facility;

f. group punishment for the acts of an individual;

g. deprivation of a youth's meals or regular snacks;

h. deprivation of a youth's court appearances;

i. deprivation of a youth's clothing, except as necessary for the youth's safety;

j. deprivation of a youth's sleep;

k. deprivation of a youth's medical or mental health services;

l. physical exercise used for discipline, compliance, or intimidation;

m. use of any mechanical restraint as a punishment;

n. use of any chemical restraint; and

o. administration of medication for purposes another than treatment of a medical, dental, or mental health condition.

2. Use of force by staff on detained youth, through either acts of self-defense or the use of force to protect a youth from harming himself/herself or others, shall be immediately reported in writing to the administrator of the facility. A copy of the written report shall be maintained in the youth's file.

3. The youth shall receive a list of the prohibited practices. There shall be documentation of acknowledgement of receipt of the list of prohibited practices by the youth in the youth's file.

4. A list of prohibited practices shall be posted in the facility.

5. Any instance of a prohibited practice shall be documented immediately in the youths file.

D. Behavior Management System

1. The provider shall have a written policy and procedure for the behavior management system to be used to assist the youth in conforming to established standards of behavior and the rules and regulations of the facility.

2. The behavior management system shall provide written guidelines and parameters that are readily definable and easily understood by youth and staff.

3. The behavior management system shall be designed to provide graduated incentives for positive behavior and afford proportional measures of accountability for negative behavior.

4. Incentives shall not include any program, service, or physical amenity to which the youth is already entitled by these rules or federal, state, or local laws.

E. Room Confinement/Isolation/Segregation

1. The provider shall have written policies and procedures to be adhered to when a youth is confined to his/her sleeping room or an isolation room. They will include the use of room confinement, room isolation, protective isolation, and administrative segregation.

2. When a youth is placed in room confinement/isolation/segregation, the following shall be adhered to:

a. The administrator or designee shall approve the confinement of a youth to his/her sleeping room or an isolation room.

b. During the period of time a youth is in confinement, the youth shall be checked by a staff member at least every 15 minutes. The staff shall be alert at all times for indications of destructive behavior on the part of the youth, either self-directed or toward the youth's surroundings. Any potentially dangerous item on the youth or in the sleeping rooms shall be removed to prevent acts of self-inflicted harm.

c. The following information shall be recorded and maintained for that purpose prior to the end of the shift on which the restriction occurred:

i. the name of the youth;

ii. the date, time and type of the youth's restriction;

iii. the name of the staff member requesting restriction;

iv. the name of the administrator or designee authorizing restriction;

v. the reason for restriction;

vi. the date and time of the youth's release from restriction; and

vii. the efforts made to de-escalate the situation and alternatives to isolation that were attempted.

d. Staff involved shall file an incident report with the shift supervisor by the end of the shift. The report shall outline in detail the presenting circumstances and a copy shall be kept in a central incident report file. At a minimum, the incident report shall contain the following:

i. name of the youth;

ii. date and time the incident occurred;

iii. a brief description of the incident;

iv. where the incident occurred;

v. any youth and/or staff involved in the incident;

vi. immediate treatment provided if any;

vii. signature of the staff completing the report; and

viii. any follow-up required.

e. If the confinement continues through a change of shifts, a relieving staff member shall check the youth and the room prior to assuming his or her post and assure that the conditions set forth in these rules are being met.

f. There shall be a means for the youth to communicate with staff at all times.

g. There shall be no reduction in food or calorie intake.

h. The youth shall have access to bathroom facilities, including a toilet and washbasin.

3. Room Isolation

a. This type of isolation shall be utilized only while the youth is an imminent threat to safety and security.

b. Staff shall hold a youth in isolation only for the time necessary for the youth to regain self-control and no longer pose a threat. The amount of time shall in no case be longer than four hours.

4. Room Confinement

a. Room confinement shall not be imposed for longer than 72 hours.

b. If a youth is placed in room confinement for longer than eight hours, the youth shall be allowed due process. Due process procedures include the following:

i. written notice to the youth of the alleged rule violation;

ii. a hearing before a disciplinary committee comprised of impartial staff who were not involved in the incident of alleged violation of the rule. The disciplinary committee may gather evidence and investigate the alleged violation. During the hearing, the youth will be allowed to be present provided he/she does not pose a safety threat. The youth may have a staff member of his/her choosing present for assistance. The youth will be allowed to present his/her case and present evidence and/or call witnesses;

iii. following the hearing, the disciplinary committee shall render decision and find the youth at fault or not;

iv. the youth shall receive a written notice of the committee's decision and the reasons for the decision;

v. the youth may appeal a finding of being at fault to the administrator assigned to the JDF.

5. Administrative Segregation

a. No youth shall be placed on administrative segregation for longer than 24 hours without a formal review of the youth's file by a qualified mental health professional and the facility administrator.

b. While a youth is on administrative segregation, the youth shall be provided with daily opportunities to engage in program activities such as education and large muscle exercise, as his/her behavior permits. The program activities may be individual or with the general population, at the discretion of the administrator or designee.

F. Staff Intervention/Restraints

1. The provider shall have written policies and procedures and practices regarding the progressive response for a youth who poses a danger to themselves, others, or property. Approved physical escort techniques, physical restraints and mechanical restraint devices are the only types of interventions that may be used in the facility. Physical and mechanical restraints shall only be used in instances where the youth's behavior threatens imminent harm to the youth or others, or serious property destruction, and shall only be used as a last resort. Plastic cuffs shall only be used in emergency situations. Use of any percussive or electrical shocking devices or chemical restraints is prohibited.

2. Restraints shall not used for punishment, discipline, retaliation, harassment, intimidation or as a substitute for room restriction or confinement.

3. When a youth exhibits any behavior that may require staff intervention, the following protocol shall be adhered to when implementing the intervention unless the circumstances do not permit a progressive response:

a. Staff shall begin with verbal calming or de-escalation techniques.

b. Staff shall use an approved physical escort technique when it is necessary to direct the youth's movement from one place to another.

c. Staff shall use the least restrictive physical or mechanical restraint necessary to control the behavior.

d. If physical force is required, the use of force shall be reasonable under the circumstances existing at the moment the force is used and only the amount of force and type of restraint necessary to control the situation shall be used.

e. Staff may proceed to a mechanical restraint only when other interventions are inadequate to deal with the situation.

f. Staff shall stop using the intervention as soon as the youth re-gains self control.

4. During the period of time a restraint is being used:

a. the youth shall be checked by a staff member at least every 15 minutes. Documentation of these checks shall be recorded and maintained in the youth's file. If the use of the restraint exceeds 60 minutes, a health professional must authorize the continued use of the restraint. However, restraints cannot be used for longer than four hours;

b. there shall be a means for the youth to communicate with staff at all times;

c. staff shall not withhold food while a youth is in a mechanical restraint;

d. the youth shall have access to bathroom facilities, including a toilet and washbasin.

5. In all situations in which a restraint is used, staff involved shall record an incident report with the shift supervisor by the end of the shift. The report shall outline in detail the presenting circumstances and a copy shall be kept in a central incident report file. At a minimum, the incident report shall contain the following:

a. the name of the youth;

b. the date, time, and location the intervention was used;

c. the type of intervention used;

d. the name of the staff member requesting use of the intervention;

e. the name of the supervisor authorizing use of the intervention;

f. a brief description of the incident and the reason for the use of the intervention;

g. the efforts made to de-escalate the situation and alternatives to the use of intervention that were attempted;

h. any other youth and/or staff involved in the incident;

i. any injury that occurred during the intervention restraint and immediate treatment provided if any;

j. the date and time the youth was released from the intervention;

k. the name and title of the health professional authorizing continued use of a restraint if necessary beyond 60 minutes;

l. signature of the staff completing report; and

m. any follow-up required.

6. The youth shall receive a list of the prohibited practices. There shall be documentation of acknowledgement of receipt of the list of prohibited practices by the youth in the youth's file.

7. Facility staff shall not use physical restraints or mechanical restraints unless they have been trained in the use of such restraints. Training shall include methods of monitoring and assessing a restrained youth for injuries and loss of circulation as a result of the use of mechanical restraint.

8. After any incident of use of a restraint, medical follow-up shall occur as soon as a qualified medical

professional is available at the facility, or sooner if medically necessary as determined by the facility administrator.

G. Prohibited Practices When Using Restraints

1. The provider shall have a written list of prohibited practices by staff members when using a restraint. This following are prohibited:

a. restraints that are solely intended to inflict pain;

b. restraints that put a youth face down with sustained or excessive pressure on the back, chest cavity, neck or head;

c. restraints that obstruct the airway or impair the breathing of the youth;

d. restraints that restrict the youth's ability to communicate;

e. restraints that obstruct a view of the youth's face;

f. any technique that does not allow monitoring of the youth's respiration and other signs of physical distress during the restraint;

g. any use of four or five-point restraints, straightjackets, or restraint chairs;

h. mechanical restraint devices that are so tight they interfere with circulation or that are so loose they cause chafing of the skin;

i. use of a waistband restraint on a pregnant youth;

j. use of a mechanical restraint that secures a youth in a position with his/her arms and/or hands behind the youth's back (hog-tied) or front, with arms or hands secured to the youth's legs;

k. use of a mechanical restraint that affixes the youth to any fixed object, such as room furnishings or fixtures; and/or

l. use of any maneuver that involves punching, hitting, poking, pinching, or shoving.

2. A youth in mechanical restraints shall not participate in any physical activity, other than walking for purposes of transportation.

3. A list of these prohibitions shall be posted in the facility.

4. The youth shall receive a list of the prohibitions when using a restraint. There shall be documentation of acknowledgement of receipt of the list of prohibitions in the youth's file.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:1110.

HISTORICAL NOTE: Promulgated by the Department of Children and Family Services, Division of Programs, Licensing Section, LR 38:1572 (July 2012), amended LR 42:399 (March 2016).

§7517. Facility Services

A. Education

1. The provider shall have written policies and procedures, and practices to ensure that each youth has access to the most appropriate educational services consistent with the youth's abilities and needs, taking into account his/her age, and level of functioning.

2. The provider shall provide accommodations for educational services to be provided by the local school district in accordance with local school board calendar.

3. Prior to the end of the first official school day following admission, the youth shall receive a brief educational history screening with respect to their school status, special education status, grade level, grades, and history of suspensions or expulsions. Staff shall use this information to determine initial placement in the facility educational program.

4. The youth shall receive a free and appropriate public education.

5. Within three school days of the youth's arrival at the facility, the provider shall request educational records from the youth's previous school. If records are not received within ten school days of the request, the administrator shall report in writing on the eleventh day to the local school district from which records were requested that the information has been requested and not received. If the records are not received within the following seven school days of notifying the local school district, the administrator shall file a written complaint with the Board of Elementary and Secondary Education (BESE) on the eighth day.

6. The youth shall attend the facility school at the earliest possible time but within three calendar days of admission to the facility.

7. The youth's admission assessment shall identify if the youth has any disabilities. Youth with disabilities shall be identified to the local school district.

8. The provider shall ensure youth have access to vocational training, GED programs, and other alternative educational programming if available from the local school district.

9. Youth in restricted, disciplinary, or high security units shall receive an education program comparable to youth in other units in the facility consistent with safety needs.

10. When youth are suspended from the facility school, the suspension shall comply with local jurisdiction due process requirements.

11. Behavior intervention plans shall be developed for a youth whose behavior interferes with their school attendance and progress.

12. The provider shall have available reading materials geared to the reading levels, interests, and primary languages of confined youth.

13. The school classes shall be held in classrooms/multi-purpose rooms. The provider shall ensure

that the educational space is adequate to meet the instructional requirements of each youth.

14. The provider shall ensure that youth are available for the minimum minutes in a school day required by law.

15. The administrator shall immediately report in writing to the local school district if the facility school is not being staffed adequately to meet state student to teacher ratios for education, including not but not limited to, special education staff and substitute teaching staff. If the issue is not resolved within five school days by the local school district, then the administrator shall file a written complaint on the sixth day with BESE and cooperate with any subsequent directives received from BESE.

B. Daily Living Services

1. Written schedules of daily routines shall be posted and available to the youth.

2. Personal Possessions

a. Space shall be provided for secure storage of each youth's personal property.

b. A separate locked cabinet or drop safe for money and other valuables shall be provided.

3. Clothing and Bedding

a. The provider shall maintain an inventory of clothing, and bedding to ensure consistent availability and replacement of items that are lost, destroyed, or worn out.

b. The provider shall provide clean underclothing, socks, and outerwear that fit properly.

c. The provider shall provide for the thorough cleaning and when necessary, disinfecting of youth's personal clothing.

d. The provider shall issue clean bedding and linen, including two sheets, a pillow, pillowcase, a mattress, and sufficient blankets to provide reasonable comfort.

e. Linen shall be exchanged weekly and towels exchanged daily.

4. Bathing and Personal Hygiene

a. Youth shall be given appropriate instructions on hygiene and shall be required to comply with facility rules of personal cleanliness and oral hygiene.

b. Youth shall be required to bath or shower daily and/or after strenuous exercise.

c. Youth shall have access to adequate personal hygiene and toiletry supplies, such as hairbrushes, toothbrushes including hygiene supplies specific for females, if females are detained in the facility.

d. Items that could allow for spread of germs shall not be shared among youth.

e. Shaving equipment shall be made available upon request under close supervision on an as needed basis.

C. Food Services

1. Food Preparation

a. The provider shall develop and implement a written policy and procedure for providing food services. Accurate records shall be maintained of all meals served. All components of the food service operation in the facility shall be in compliance with all applicable public health requirements.

b. A staff member experienced in food service management shall supervise food service operations.

c. A nutritionist, dietitian, or other qualified professional shall ensure compliance with recommended food allowances and review a system of dietary allowances.

d. A different menu shall be followed for each day of the week and the provider shall keep dated records of menus, including substitutions and changes.

e. The kitchen, consisting of all food storage, food preparation, food distribution, equipment storage, and layout shall comply with Office of Public Health requirements.

2. Nutritional Requirements

a. A youth shall receive no fewer than three nutritionally balanced meals in a 24 hour period.

b. Meals shall be planned and shall provide a well-balanced diet sufficient to meet nutritional needs.

c. Youth shall receive snacks in the evenings.

3. Modified Diets

a. The provider shall provide meals for youth with special dietary requirements, such as youth with allergies or other medical issues, pregnant youth, and youth with dental problems, and youth with religious beliefs that require adherence to religious dietary laws.

4. Daily Schedule

a. Three meals, two of which shall be hot, shall be provided daily, lasting a minimum of 20 minutes each.

b. No more than 14 hours shall elapse between the evening meal and breakfast meal.

c. Variations shall be allowed on weekends and holidays.

d. Regular meals and/or snacks shall not be withheld for any reason.

e. Youth shall not be forced to eat any given food item.

f. Provisions shall be made for the feeding of youth admitted after the kitchen has been closed for the day.

g. Normal table conversation shall be permitted during mealtimes.

h. There shall be a single menu for staff and youth.

5. General Issues

a. The general population shall not be fed meals in sleeping rooms except under circumstances where safety and security of the building and/or staff would otherwise be jeopardized.

D. Health Related Services

1. Health Care

a. The provider shall have written policies and procedures and practices to ensure preventive, routine, and emergency medical, mental health and dental care for youth.

b. The provider shall have a responsible health authority accountable for health care services pursuant to a contract or job description.

c. The provider shall provide health services to youth free of charge.

d. Limit sharing of confidential information to those who need the information to provide for the safety, security, health, treatment, and continuity of care for youth, consistent with state and federal law.

e. Each provider shall provide a dedicated room or rooms for examinations.

2. Medical Care

a. The provider shall have availability or access to a physician or local emergency room 24 hours, seven days a week.

b. Staff assigned to provide medical care shall be qualified to do so as required by law.

c. The youth shall be notified of how and to whom to report complaints about any health related issues or concerns.

d. The provider shall ensure that each youth receive medical care if they are injured or abused.

e. The provider shall immediately attempt to notify the youth's parent/legal guardian of a youth's illness or injury that requires service from a hospital.

f. Youth may request to be seen by a qualified medical professional without disclosing the medical reason and without having non-health care staff evaluate the legitimacy of the request.

g. The provider shall ensure that any medical examination and treatment conforms to state laws on medical treatment of minors, who may give informed consent for such treatment, and the right to refuse treatment.

h. Medical staff shall obtain informed consent from a youth and/or parent/legal guardian as required by law, and shall honor refusals of treatment.

i. When medical and/or mental health staff believe that involuntary treatment is necessary, the treatment shall be conducted in a hospital and not at the facility after compliance with legal requirements.

j. Staff shall document the youth and/or parent/legal guardian's consent or refusal, including counseling with respect to treatment, in the youth's medical file.

k. Pregnant youth shall be provided prenatal care. Any refusal for prenatal care by the pregnant youth shall be documented in their file.

l. Youth who are victims of sexual assault shall receive immediate medical treatment, counseling, and other services.

m. Files of all medical examinations, follow-ups and services, together with copies of all notices to a parent/legal guardian shall be kept in the youth's medical file.

n. Youth placed in medical isolation shall participate in programming as determined by the facility's qualified medical professional.

3. Mental Health Care

a. The provider shall ensure that 24-hour on-call or emergency mental health services are available for youth.

b. Youth shall be appropriately assessed and treated for suicide risk, to include the following principles.

i. All staff working with youth shall receive training on recognition of behavioral and verbal cues indicating vulnerability to suicide, and what to do in case of suicide attempts or suicides to include the use of a cut-down tool for youth hanging.

ii. Staff shall document the monitoring of youth on suicide watch at the time they conduct the monitoring. The qualified mental health professional shall approve the standard protocol for the maximum amount of time that should lapse between monitoring by a staff member. The qualified mental health professional shall document any deviation from the approved standard protocol for specific cases. Staff shall monitor no less frequently than the recommendations set forth by the mental health professional.

iii. Qualified mental health professionals shall determine the level of supervision to be provided.

iv. Qualified mental health professionals shall provide clear, current information about the status of youth on suicide watch to staff supervising youth.

v. Staff shall not substitute supervision aids, such as closed circuit television or placement with roommates, for in-person one-on-one staff monitoring.

vi. Youth at risk of suicide shall be engaged in social interaction and shall not be isolated. Youth on all levels of suicide precautions shall have an opportunity to participate in school and activities to include the one-on-one staff person.

vii. Youth on suicide watch shall not be left naked. Clothing requirements shall be determined by a qualified mental health professional.

viii. Only a qualified mental health professional shall authorize the release of a youth from suicide watch or lower a youth's level of precautions. Qualified mental health

professionals shall return youth to normal activity as soon as possible.

ix. A qualified mental health professional shall follow-up with youth during and after the youth is released from suicide watch. The follow-up shall be to the degree and frequency that the qualified mental health professional determines is necessary to meet the youth's mental health needs.

x. Suicides or attempts of suicide shall be accurately documented. There shall be an administrative and mental health review and debriefing after each such occurrence.

xi. Staff shall immediately notify the parent/legal guardian following any incident of suicidal behavior.

xii. Staff shall immediately notify the parent/legal guardian following any incident of self-harm as determined by a qualified mental health professional.

4. Medication

a. The provider shall ensure that medication is administered by a registered nurse, licensed practical nurse, or licensed medical physician; by persons with appropriate credentials, training, or expertise in accordance with R.S. 15:911.; or self-administered according to state law. All administration, conditions, and restrictions of medication administration shall be in accordance with R.S. 15:911.

b. The administration of all prescription and non-prescription medication shall be documented whether administered by staff or supervised by staff while self-administering. This documentation shall include:

i. the youth's name;

ii. date;

iii. time;

iv. medication administered;

v. the name of the person administering the medication; and

vi. the youth's signature, if self-administered.

c. If a youth refuses to take medication, documentation shall include:

i. the youth's name;

ii. date;

iii. time;

iv. medication to be administered;

v. the name of the person attempting to administer the medication;

vi. the refusal;

vii. reason for the refusal; and

viii. the youth's signature, if youth is willing to sign.

d. Receipt of prescription medication shall be by a qualified medical professional or unlicensed trained personnel and the process shall be as follows.

i. When medication arrives at the facility, the qualified medical professional/unlicensed trained personnel shall conduct a count with the name of the person delivering the medication and document the count utilizing a facility form which includes the person delivering medication; the name of youth to whom the medication is prescribed and the amount, physician, and date prescribed for all medication.

ii. All medication shall be in the original container and not expired.

iii. The qualified medical professional shall prepare a medication administration record for all medications.

iv. The qualified medical professional shall place the medication in a locked medication location.

e. The qualified medical professional shall identify and confirm the prescription of all medication received at the facility.

f. There shall be a system in place to ensure that there is a sufficient supply of prescribed medication available for all youth at all times.

i. At shift change, a qualified medical professional or unlicensed trained personnel shall review the medication administration record to ensure that medication was administered as ordered and maintain an inventory of the medication.

ii. Any deviation in the medication count shall be reported to the administrator or designee when identified.

iii. The qualified medical professional or unlicensed trained personnel shall ensure that any medication given to a youth is in accordance with a physician's order.

iv. There shall be a system in place for the documentation of medication errors.

g. Standing orders for non-prescription medication, including directions from the physician indicating when they should be contacted, shall be signed by a physician. There shall be no standing orders for prescription medication. The orders shall be reviewed and signed annually.

h. Medication shall not be used as a disciplinary measure, for the convenience of staff, or as a substitute for programming.

i. The provider shall notify the youth's parent/legal guardian of the potential benefits and side effects of medication prescribed while the youth is in the facility. The youth or the youth's parent/legal guardian must consent to changes to their medication, prior to administration of any new or altered medication.

j. The qualified medical professional or unlicensed trained personnel shall ensure that the on call physician is immediately notified of any side effects observed by the

youth, or by staff, as well as, any medication errors. Any negative side effects shall be promptly recorded in the youth record. The parent/legal guardian shall be notified verbally or in writing within 24 hours of any such side effects and a notation of such communication shall be documented in the youths file.

k. Medication shall be stored under proper conditions of sanitation, temperature, light, moisture, ventilation, and security, as required by manufacturer's guidelines and/or law.

l. Discontinued and outdated medication, as well as, medication with damaged containers, or illegible or missing labels shall be properly disposed of according to state law.

m. The provider shall maintain an adequate supply of emergency medication and easily accessible information to include the phone number of the poison control center in case of overdoses or toxicological emergencies.

5. Dental Care

a. The provider shall have a written policy and procedure and practice for providing dental services to all youth to include the following.

i. Youth shall be allowed to brush their teeth at least twice daily.

ii. The provider shall provide a dental examination by a physician/dentist, as needed.

iii. The provider shall provide emergency dental care, as needed.

iv. The qualified medical professional will contact the youth's parents/legal guardian regarding any dental needs identified.

v. All dental examinations, follow-ups, and services shall be documented in the youth's medical file.

6. Immunizations

a. The provider shall have a written policy and procedure and practice regarding the maintenance of immunization records.

b. Within seven days of admission, each youth's immunization records shall be requested from the school of record or other resources. If not received in the time specified, staff shall follow-up with school or other resources. Any immunization record received shall be included in the youth's medical file.

c. The provider shall provide or make arrangements for needed immunizations, as identified by a qualified medical professional.

E. Exercise/Recreation/Other Programming

1. The provider shall have a policy and procedure for approving a program of exercise, recreation, and other programming for all youth. The program will ensure that girls have reasonable opportunities for similar activities, skill development, and an opportunity to participate in programs of comparable quality.

2. Youth in the facility, including youth on disciplinary or restricted status, shall receive at least one hour of large muscle exercise daily. This exercise shall be outside, weather permitting.

3. Youth in the facility shall receive a minimum of one hour of recreational time per day outside of the youth's sleeping room. Recreational activities shall include a range of activities in dayroom/multipurpose rooms or common areas, including but not limited to reading, listening to the radio, watching television or videos, board games, drawing or painting, listening to or making music, and letter writing.

4. The provider shall provide functioning recreational equipment and supplies for physical education activities.

5. Youth shall be provided unstructured free time. There shall be an adequate supply of games, cards, writing, and art materials for use during unstructured recreation time.

6. Reading materials appropriate for the age, interests, and literacy levels of youth shall be available in sufficient variety and quantity to the youth. Youth shall be allowed to keep reading materials in their rooms including religious reading material.

7. The provider shall offer life and social skill competency development, which helps youth function more responsibly and successfully in everyday life situations. These shall include social skills that specifically address interpersonal relationships, through staff interactions, organized curriculums, or other programming.

8. Staff, volunteers, and community groups shall provide additional programming reflecting the interests and needs of various racial and cultural groups within the facility and are gender-responsive. The facility activities may include art, music, drama, writing, health, fitness, meditation/yoga, substance abuse prevention, mentoring, and voluntary religious or spiritual groups.

9. The provider shall offer gender-responsive programming, to include topics such as physical and mental abuse, high-risk sexual behavior, mental health, parenting classes, and substance abuse issues.

10. The provider shall develop a daily activity schedule, which is posted in each living area and outlines the days and times of each youth activity.

F. Transportation

1. The provider shall have written policies and procedures and practices to ensure that each youth is provided with transportation necessary to meet his/her needs and in a safe and secure manner.

2. The provider shall ensure proper use of official vehicles and guard against use of a vehicle in an escape attempt.

3. Any vehicle used in transporting youth shall be properly licensed and inspected according to state law.

4. The driver shall be properly licensed.

5. The number of passengers shall not exceed vehicle rated capacity.

6. Youth shall not be permitted to drive facility vehicles.

7. Bodily injury and property damage liability shall be maintained for all vehicles.

8. Youth shall not be transported in open truck beds.

9. Seat belts shall be worn at all times.

10. Doors shall remain locked when in transport.

11. Youth shall not be affixed to any part of the vehicle or secured to another youth.

12. Mechanical restraints used during routine transportation in a vehicle or movement of a youth from the facility to another location outside the facility shall not be required to be documented as a restraint.

13. At least one staff member transporting a youth shall be of the same gender as the youth in transport.

14. The driver shall have the ability to communicate to the facility.

15. All vehicles used for the transportation of youth shall be maintained in a safe condition and in conformity with all applicable motor vehicle laws.

16. The provider shall ensure that an appropriately equipped first aid kit is available in all vehicles used to transport youth.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:1110.

HISTORICAL NOTE: Promulgated by the Department of Children and Family Services, Division of Programs, Licensing Section, LR 38:1575 (July 2012), amended LR 42:398 (March 2016).

§7519. Physical Environment

A. Physical Appearance and Conditions

1. The provider shall have written policies and procedures and practices for the maintenance of a clean and sanitary facility that promotes a safe and secure environment for youth and addresses emergency repairs, replacement of equipment and general upkeep, preventive and ongoing maintenance of the physical plant and equipment.

2. Weekly sanitation inspections shall be made of all facility areas. A designated staff member shall submit a written sanitation report to the administrator. A copy of the report shall be kept on file.

3. The provider shall have an effective pest control program to prevent insect and rodent infestation.

4. The facility's perimeters shall be controlled by appropriate means to provide that youth remain within the perimeter and to prevent access by the general public without proper authorization. Facilities shall not utilize razor wire to secure the perimeter.

5. The provider shall provide heating, cooling and ventilation systems that are appropriate to summer and winter comfort zones, with no unhealthy extremes.

6. The provider shall ensure access to clean drinking water.

B. Positive Institutional Atmosphere

1. Staff demonstrates an appropriate level of tolerance of normal adolescent behavior in their day to day working with youth.

2. Furnishings and other decorations reflect a home-like, non-penal environment to the maximum extent possible.

3. Staff recognizes and celebrates important holidays, birthdays, and other dates of significance to youth.

4. The décor and programming acknowledge and value the diverse population of youth in the facility.

C. Dining Areas

1. Dining areas shall be clean, well lit, ventilated and equipped with dining tables and appropriate seating for the dining tables.

D. Sleeping Areas

1. Size requirements for single and double occupancy housing units shall be as follows.

a. A single occupancy room shall have at least 35 square feet of unencumbered space. At least one dimension of the unencumbered space shall be no less than seven feet. In determining unencumbered space in the cell or room, the total square footage is obtained and the square footage of fixtures and equipment is subtracted.

b. A double occupancy room shall have at least 50 square feet of unencumbered space.

2. Ceilings shall be a minimum of 10 feet from ceiling to floor.

3. There shall be separate sleeping rooms for male and female youth.

4. Youth held in sleeping rooms shall have access to a toilet above floor level, a washbasin, clean drinking water, running water, and a bed above floor level.

5. The provider shall not use any room that does not have natural lighting as a sleeping room.

6. The provider shall remove protrusions and other tie-off points from rooms.

7. Doors

a. The doors of every sleeping room shall have a view panel that allows complete visual supervision of all parts of the room. The view panel shall be one-quarter inch tempered or safety glass panels at least 10 inches square.

b. Doors shall be hinged to a metal frame set securely in the wall with sound insulation strips on the jamb.

c. Hinge pins of doors shall be tamperproof and non-removable.

d. In newly constructed or renovated facilities doors to sleeping rooms shall be arranged alternately so that they are not across the corridor from each other.

e. Each youth's housing door shall be hung so that it opens outward, in the opposite direction of the youth living area, or slide horizontally into a recessed pocket in order to prevent the door from being barricaded.

8. Lighting in sleeping rooms shall provide adequate illumination and shall be protected by a tamperproof safety cover.

9. Furniture and Fixtures

a. All furnishings, fixtures, and hardware in sleeping rooms shall be as suicide resistant as possible.

b. All youth shall have a bed above floor level

c. Only flame-retardant furnishings shall be used in the facility.

10. There shall not be any exposed pipes in sleeping rooms. Traps and shut-off values shall be behind locked doors outside the sleeping rooms.

E. Bathrooms

1. Individual showers shall be provided for all youth, with a ratio of not less than one shower for each six youth in the population.

2. At least one washbasin shall be provided for each six youth.

3. Urinals may be substituted for up to one-half of the toilets in male units.

4. A minimum of one toilet for each six youth shall be provided in each living unit.

5. Youth in "dry" rooms (without toilets) shall have immediate access to toilets (no longer than a five minute delay after a youth request).

6. Bathroom fixtures shall be sturdy, securely fastened to the floor and/or wall.

7. Showers shall be equipped to prevent slipping.

8. Bathroom facilities shall be designed so that youth are able to shower and perform bodily functions without staff or other youth viewing them naked.

F. Exercise Area

1. Facilities shall have outdoor exercise areas 100 square feet per youth for the maximum number of youth expected to use the space at one time, but not less than 1,500 square feet of unencumbered space.

G. Day Room Area

1. Facilities shall have dayrooms that provide a minimum of 35 square feet of space per youth (exclusive of lavatories, showers, and toilets) for the maximum number of youth per the unit capacity, and no dayroom encompasses less than 100 square feet of space (exclusive of lavatories, showers, and toilets).

H. Interview, Visitation and Counseling Areas

1. The provider shall provide sufficient space for interviewing, counseling, and visiting areas.

2. The interview and visiting room shall allow privacy, yet permit visual supervision by staff, and shall be located within the security perimeter completely separate from the youth living quarters.

I. Laundry

1. The provider shall have a process in place to ensure clean laundry is available for the youth.

J. Storage Areas

1. The provider shall have securely locked storage space for all potentially harmful materials. Keys to such storage spaces shall only be available to authorized staff members.

2. All service and maintenance areas shall be locked and shall be inaccessible to the youth.

3. Separate areas for mechanical equipment shall be provided in a location inaccessible to the youth.

4. Storage space shall be provided for janitorial supplies, food/kitchen supplies and equipment, arts and crafts materials, office supplies, and other supplies required for the maintenance of the facility.

5. Storage areas shall not be accessible by youth.

6. There shall be a location for secure storage of restraining devices and related security equipment. This equipment shall be readily accessible to authorized persons.

K. Housekeeping

1. There shall be a provision for providing housekeeping services for the facility's physical plant.

2. Cleaning and janitorial supplies shall be kept in a locked supply area. Supplies shall be issued and controlled by staff.

3. Unsupervised youth shall not have unrestricted access to areas where cleaning chemicals are stored.

4. Youth shall be directly supervised when cleaning chemicals and equipment are in use.

5. Chores shall be assigned in relation to the youth's age and abilities, and shall be planned so as not to interfere with regular school programs, study periods, recreation, or sleep.

6. The provider shall store and secure objects that can be used as weapons, including but not limited to knives, scissors, tools, and other instruments.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:1110.

HISTORICAL NOTE: Promulgated by the Department of Children and Family Services, Division of Programs, Licensing Section, LR 38:1579 (July 2012).

§7521. Emergency Preparedness

A. The provider shall have a written policy and procedure and practice which ensures the smooth operation, evacuation, if necessary, and steps to be taken during a security threat or disaster, which could impact the operations of the facility or the safety of youth, staff and/or visitors. Quick reference guides shall be located in a designated area for easy access. These procedures shall be reviewed and revised, as necessary. Procedures will incorporate responses to the following events:

1. disturbances and riots;
2. hostages;
3. bomb threats;
4. use of emergency medical services;
5. gas leaks, spills or attacks;
6. power failure;
7. escapes;
8. hurricanes, tornados, severe weather, flooding;
9. fires/smoke;
10. chemical leaks;
11. work stoppage; or
12. national security threat.

B. The emergency preparedness plan shall cover:

1. the identification of key personnel and their specific responsibilities during an emergency or disaster;

2. agreements with other agencies or departments;

3. transportation to pre-determined evacuation sites;

4. notification to families;

5. needs of youth with disabilities in cases of an emergency;

6. immediate release of a youth from locked areas in case of an emergency, with clearly delineated responsibilities for unlocking doors;

7. the evacuation of youth to safe or sheltered areas. Evacuation plans shall include procedures for addressing both planned and unplanned evacuations and to alternate locations both in close proximity of the facility as well as long distance evacuations;

8. ensuring access to medication and other necessary supplies or equipment.

C. Drills

1. The provider shall conduct fire drills once per month, one drill per shift every 90 days, at varying times of the day. Documentation of the fire drill shall include the following:

a. date of drill;

b. time of drill;

c. number of minutes to evacuate facility;

d. number of youth evacuated;

e. problems/concerns observed during the drill;

f. corrections if problems or concerns noted; and

g. signatures of staff present during drill.

2. The provider shall make every effort to ensure that staff and youth recognize the nature and importance of fire drills.

D. Alternate Power Source

1. An alternate power source policy shall be developed. The facility shall have an alternate source of electrical power that provides for the simultaneous operations of life safety systems including:

a. emergency lighting;

b. illuminated emergency exit lights and signs;

c. emergency audible communication systems and equipment;

d. fire detection alarms systems;

e. ventilation and smoke management systems;

f. refrigeration of medication;

g. medical devices; and

h. door locking devices.

2. Testing of Alternate Power Source

a. The alternate power source system shall be tested by automatic self-checks or manual checks to ensure the system is in working condition.

b. Any system malfunctions or maintenance needs that are identified during a test, or at any other time, shall require that a written maintenance request be immediately submitted to the appropriate personnel.

E. Emergency Plan for Unlocking Doors

1. The facility will adhere to Life Safety Code, Article 10-3141 and 10-3142.

2. The provider will ensure that reliable means are provided to permit the prompt release of youth confined in locked sections, spaces or rooms in the event of fire or other emergency.

3. Prompt release from secure areas shall be guaranteed on a 24 hour basis by sufficient personnel with ready access to keys.

F. Declared State of Emergency

1. Facilities under a declared state of emergency due to a natural disaster or other operational emergency of facilities housing youth from these affected facilities shall be exempt from capacity requirements as determined by law.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:1110.

HISTORICAL NOTE: Promulgated by the Department of Children and Family Services, Division of Programs, Licensing Section, LR 38:1580 (July 2012).

§7523. Safety Program

A. Policies and Procedures

1. The provider shall have policies and procedures and practices that ensure an on-going safety program is maintained.

B. General Safety Practices

1. Firearms and weapons shall be prohibited in secure areas. The provider shall require that visiting law enforcement personnel store their weapons either in provided lock-boxes or locked in their vehicles.

2. Staff shall accompany private contractors when in the presence of youth.

3. The provider shall ensure that a properly equipped first aid kit is available in each living unit.

C. Security

1. Doors and Perimeter Control

a. The provider shall maintain controlled access to the facility and internal doors at all times.

b. The provider shall designate entrances and exits for use by staff and the public. Designated perimeter entrances and doors will be secured to ensure that youth remain on facility grounds and to prevent unauthorized public access to the facility.

c. The provider shall record admissions and departures of visitors entering and exiting the facility to include the nature of business, arrival and departure times, and a brief notation of unusual circumstances surrounding any visit.

d. The provider shall control access to any vehicular entrance, when applicable.

e. The provider shall maintain security of all doors, unoccupied areas and storage rooms and accessibility of authorized persons to secured areas.

2. Youth Supervision and Movement

a. Supervision of movement shall include the following:

i. staff shall be aware of the location and the number of youth he/she is responsible for at all times;

ii. staff shall not leave his/her area of responsibility without first informing the supervisor;

iii. at least one escort must be the same sex and/or gender of youth during movement;

iv. staff shall conduct a periodic head count;

v. instruction shall be provided for staff escorting youth within and outside the facility;

vi. prohibition of the supervision of youth by youth; and

vii. shift assignments, including the use, location, and scope of assignment.

3. Searches

a. The provider shall have a written policy and procedure for conducting searches.

b. The provider shall conduct routine and unannounced searches/inspections of all areas of the physical plant and other areas deemed necessary by administration to ensure the facility remains secure at all times.

c. The provider shall conduct individual room searches when necessary with the least amount of disruption and with respect for youth's personal property.

d. Search of visitors shall be conducted when it is deemed necessary (as permitted by applicable law) to ensure the safety and security of the operation of the facility.

e. Searches of youth, except body cavity searches conducted by a qualified medical professional, shall be conducted by a facility staff member of the same gender as the youth and limited to the following conditions:

i. pat down/frisk search to prevent concealment of contraband and as necessary for facility security; and

ii. oral cavity search to prevent concealment of contraband, to ensure the proper administration of medication, and as necessary for facility security.

f. Youth may be required to surrender their clothing and submit to a strip search under the following guidelines:

i. only if there is reasonable suspicion to believe that youth are concealing contraband or it is necessary for facility security; and

ii only with supervisory approval.

g. Youth may be required to undergo body cavity search under the following guidelines:

i. only if there is reasonable suspicion to believe that youth are concealing contraband;

ii. only with the approval of the administrator or designee; and

iii. only if conducted by a qualified medical professional, in the presence of one other staff member of the same gender as the youth being searched.

h. The provider shall document justification for a body cavity search and the results of the search placed in the youth's file.

i. All searches, excluding pat down/frisk searches, shall be conducted with youth individually and in a private setting.

j. Staff shall not conduct searches of youth and/or youth's room as harassment or for the purpose of punishment or discipline.

4. Key Control

a. The provider shall ensure safe and secure inventory, accountability, distribution, storage, loss, transfer, and emergency availability of all keys. The provider shall develop and implement written policy addressing loss of keys.

5. Equipment and Tool Control

a. The provider shall ensure safe and secure inventory, accountability, distribution, storage of all tools and equipment. The provider shall develop and implement a written policy addressing loss of equipment and tools.

b. Equipment and tool use by youth shall be under the direct supervision of designated staff and according to state law.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:1110.

HISTORICAL NOTE: Promulgated by the Department of Children and Family Services, Division of Programs, Licensing Section, LR 38:1581 (July 2012).

§7525. Data

A. Admission Data

1. The provider shall maintain accurate records on all new admissions, to include the following data fields:

a. demographics of youth admitted, aggregated by:

i. race;

ii. ethnicity;

iii. gender;

iv. date of birth;

v. parish of residence; and

vi. geographical zone determined by provider to include zip code, local law enforcement zones);

b. legal status of youth, aggregated by:

i. custody status of the youth; and

ii. adjudication status;

(a) pre-adjudicated-status/delinquent; and

(b) post-adjudicated-status/delinquent;

c. offenses of youth admitted, aggregated by:

i. specific charge(s);

ii. intake date; and

iii. release data;

d. youth participation in Families in Need of Services (FINS) program:

i. dates of participation in FINS (formal or informal); and/or

ii. referrals to FINS (formal or informal).

B. Operational Data

1. The provider shall maintain accurate records of operational events that include the following data fields:

a. youth released, aggregated by:

i. race;

ii. ethnicity;

iii. gender; and

iv. custody status;

b. average daily population of youth in the facility; and

c. average length of stay of youth in the facility.

C. Detention Screening Data

1. If a provider conducts a Risk Assessment Instrument (RAI) on new admissions, it shall maintain an accurate record of the following data fields:

a. demographics of youth screened, aggregated by:

i. race;

ii. ethnicity;

iii. gender;

iv. date of birth;

v. parish of residence; and

vi. geographical zone determined by provider to include zip code, local law enforcement zones;

b. offense of youth screened:

i. specific charge(s); and

ii. release date;

c. screen data:

i. date completed;

ii. overrides usage; and

iii. screening outcomes: release/alternative to detention/secure detention;

d. outcome data:

i. successful/unsuccessful; and

ii. recidivism/failure to appear (FTA).

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:1110.

HISTORICAL NOTE: Promulgated by the Department of Children and Family Services, Division of Programs, Licensing Section, LR 38:1582 (July 2012).

Title 67
SOCIAL SERVICES
Part VII. Rehabilitation Services

Chapter 1. General Provisions

§101. Agency Profile

A. Mission. To assist persons with disabilities in their desire to obtain or maintain employment and/or to achieve independence in their community by providing rehabilitation services and by working cooperatively with business and other community services.

B. Program Administration. Louisiana Rehabilitation Services, hereafter referred to as LRS, will secure appropriate resources and support in administering the various programs under the responsibility of the agency. These programs include, but are not limited to:

1. Vocational Rehabilitation Program;

2. Title VII Part B Independent Living Program;

3. Louisiana Commission for the Deaf;

4. Title VI Supported Employment Program;

5. Randolph-Sheppard Blind Vending Facility Program;

6. Personal Care Attendant Program;

7. Community and Family Support Program;

8. Traumatic Head and Spinal Cord Injury Trust Fund (THSCI).

C. The Manual's Function. This manual sets forth the policies of LRS in carrying out the agency's mission, specifically as this mission relates to the Vocational Rehabilitation Program.

D. Exceptions. The director or designee shall have the sole responsibility for any exceptions to this policy manual.

E. Nondiscrimination. All programs administered by and all services provided by LRS shall be rendered on a nondiscrimination basis without regard to handicap, race, creed, color, sex, religion, age, national origin, duration of residence in Louisiana, or status with regard to public assistance in compliance with all appropriate state and federal laws and regulations to include Title VI of the Civil Rights Act of 1964.

F. Compliance with State Laws, Federal Laws and Regulations, and Departmental Policies and Procedures. Staff shall comply with all state and federal laws, agency and civil service rules and regulations, Title I of the Rehabilitation Act of 1973, as amended, and the Americans with Disabilities Act (ADA) of 1990 (Public Law 101-336).

G. Cost-Effective Service Provision. Services shall be provided in a cost-effective manner.

H. Records

1. A record must be maintained for each applicant/client and shall contain documentation to support a counselor's decision regarding eligibility, order of selection, and subsequent decisions to provide, deny, or amend services.

I. Data Collection. Staff shall ensure the provision of client and financial data necessary for the operation of the agency's information and financial system.

J. Expeditious Service Delivery. All referrals, applications and provision of services will be handled expeditiously and equitably.

K. Client Assistance Program. All programs, including community rehabilitation programs, and projects that provide services to individuals with disabilities under this Act shall advise such individuals, or the parents, family members, guardians, advocates, or authorized representatives of the individuals, of the availability and purposes of the Client Assistance Program, including information on means of seeking assistance under such program.

L. Equal Employment Opportunities

1. LRS will comply with Title VII of the Civil Rights Act of 1964 as amended, and Title V of the Rehabilitation Act of 1973 as amended.

2. In addition, all community rehabilitation programs supported by grants or funding from the Rehabilitation Services Administration, must be operated in compliance with these laws.

M. Affirmative Action Plan. LRS will take affirmative action to ensure that the following will be implemented at all levels of administration: recruit, hire, place, train and promote in all job classifications without regard to non-merit factors such as race, color, age, religion, sex, national origin, disability or veteran status, except where sex is a bona fide occupational qualification.

N. Comprehensive System of Personnel Development. LRS will provide a comprehensive system of personnel development in accordance with the Rehabilitation Act Amendments of 1998.

O. *Applicant/Client*—for purposes of representation, the term *applicant/client* refers to an individual who has applied for vocational rehabilitation services or in certain cases, a parent, or family member, or guardian, an advocate, or any other authorized representative of the individual.

P. Cooperative Agreements. LRS will use services provided under a cooperative agreement as comparable services and benefits.

Q. Services to American Indians with Disabilities. LRS will provide vocational rehabilitation services to American Indians with disabilities to the same extent that these services are provided to other individuals with disabilities which will include, as appropriate, services traditionally available to Indian tribes on reservations.

R. Misrepresentation, Fraud, Collusion, or Criminal Conduct

1. Individuals who obtain access to the services provided by LRS through means of misrepresentation, fraud, collusion, or criminal conduct shall be held responsible for the return of funds expended by LRS on the individual's behalf. Further, such actions shall result in the closure of the individual's vocational rehabilitation case record. Failure on the individual's part to make reparation of funds to the agency may result in legal action being taken by LRS.

2. In cases in which LRS is in possession of clear evidence of misrepresentation, fraud, collusion, or criminal conduct on the part of the individual for the purpose of obtaining services for which the individual would not otherwise be eligible, the individual's case will be referred to the Department of Social Services, Bureau of General Counsel for consultation and/ or investigation. If Department of Social Services, Bureau of General Counsel concurs or determines that the individual has obtained services through misrepresentation, fraud, collusion, or criminal conduct, a certified letter will be directed to the individual by the LRS Counselor demanding payment in full of funds which have been expended by the agency on the individual's behalf. The failure of the individual to comply with the demand for reparation may result in legal action being taken on behalf of LRS.

S. Informed Choice. LRS shall provide information and support services to assist applicants and eligible individuals in exercising informed choice throughout the rehabilitation process, consistent with the following:

1. to inform each applicant and eligible individual through appropriate modes of communication;

2. to assist applicants and eligible individuals in exercising informed choice in decisions related to the provision of assessment services;

3. to maintain flexible procurement guidelines and methods that facilitate the provision of services;

4. to provide or assist eligible individuals in acquiring information necessary to develop the components of the Individualized Employment Plan.

T. Construction. Nothing in this policy manual shall be construed to create an entitlement to any vocational rehabilitation service.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:664.4 and R.S. 36:477.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Rehabilitation Services, LR 17:891 (September 1991), amended LR 20:317 (March 1994), repromulgated LR 21:189 (February 1995), amended LR 21:473 (May 1995), LR 21:837 (August 1995), LR 25:1263 (July 1999), LR 29:46 (January 2003).

§103. Enabling Legislation

A. The Rehabilitation Act Amendments of 1998, as contained in H.R. 1385, Workforce Investment Act of 1998.

B. Code of Federal Regulations. Volume 34, Sections 361, 363, 365, and 370.

C. *Louisiana Revised Statutes*

1. Act 939 of the 2010 Legislative Session transferred programs operated by LRS from the Department of Social Services to Louisiana Workforce Commission.

2. Act 19 of 1988 effected the merger of the Division of Rehabilitation Services with the Division of Blind Services to form Louisiana Rehabilitation Services.

3. Act 109 of 1984, R.S. 39:1595.3, and Act 291 of 1986, R.S. 39:1594(I), enacted and authorized the State Use Law.

4. Act 10 of 1994, R.S. 18:59(I)(2), 61(A)(1), 62(A), 103(A), enacted and authorized to provide for the implementation of the National Voter Registration Act of 1993.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23-3001.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Rehabilitation Services, LR 17:891 (September 1991), amended LR 20:317 (March 1994), LR 25:1265 (July 1999), LR 29:46 (January 2003), amended by Workforce Commission, Rehabilitation Services, LR 41:1775 (September 2015).

§105. Confidentiality

A. General Statement. All client information is confidential. All personal information in the possession of the state agency shall be used only for purposes directly connected with the administration of the program.

B. Notification to Clients. Individuals asked to supply the agency with information concerning themselves shall be informed of the agency's need to collect confidential information and the policies governing its use, release, and access including:

1. the Consent to Release Case Record Information Form contained in case files which must document that individuals have been advised of the confidentiality of information pertinent to their case;

2. the principal purpose for which the agency intends to use or release the requested data;

3. whether the individuals may refuse, or are legally required to supply the requested data;

4. any known consequence arising from not providing the requested information;

5. the identity of other agencies to which information is routinely released.

C. Release of Confidential Information

1. The case file must contain documentation concerning any information released with the individual's written consent. Informed written consent is required for the release of personal records to the following:

a. public assistance agencies or programs from which the client has requested services or to which the client is being referred for services;

b. the Louisiana Workforce Commission, formerly the Louisiana Department of Labor, and military services of the United States government;

c. doctors, hospitals, clinics, rehabilitation centers, community rehabilitation programs and vendors providing services to clients as authorized by Louisiana Rehabilitation Services;

d. schools or training centers, when LRS has authorized the service or is considering authorizing such services, and the information is required for the client's success in the program, for the safety of the client, or is otherwise in the client's best interest.

2. Confidential information will be released to an organization or an individual engaged in research, audit, or evaluation only for purposes directly connected with the administration of the state program (including research for the development of new knowledge or techniques which would be useful in the administration of the program).

a. Such information will be released only if the organization or individual furnishes satisfactory assurance that:

i. the information will be used only for the purpose for which it is provided;

ii. that it will not be released to persons not connected with the study under consideration; and

iii. that the final product of the research will not reveal any information that may serve to identify any person about whom information has been obtained through the state agency without written consent of such person and the state agency.

b. Information for research, audit, or evaluation will be issued only on the approval of the director.

c. The client must be advised of these conditions.

3. LRS may also release personal information to protect the individual or others when the individual poses a threat to his/her safety or the safety of others.

D. Client Access to Data. When requested in writing by the involved individual or an authorized representative, clients or applicants have the right to see and obtain in a timely manner copies of any information that the agency maintains on them, including information in their case files, except:

1. medical and/or psychological information, when the service provider states in writing that disclosure to the individual would be detrimental to the individual's physical or mental health;

2. medical, psychological, or other information which the counselor determines harmful to the individual;

NOTE: Such information may not be released directly to the individual, but must be released, with the individual's informed consent, to the individual's representative, or a physician or a licensed or certified psychologist.

3. personal information that has been obtained from another agency or organization. Such information may be released only by or under the conditions established by the other agency or organization.

E. Informed Consent. Informed consent means that the individual has signed an authorization to release information and such authorization is as follows:

1. in a language that the individual understands;

2. dated;

3. specific as to the nature of the information which may be released;

4. specifically designates the parties to whom the information may be released;

5. specific as to the purpose(s) for which the released information may be used;

6. specific as to the expiration date of the informed consent which must not exceed one year.

F. Confidentiality—HIV Diagnosis. Each time confidential information is released on applicants or clients who have been diagnosed as HIV positive, a specific informed written consent form must be obtained.

G. Court Orders, Warrants and Subpoenas. Subpoenaed case records and depositions are to be handled in the following manner:

1. with the written informed consent of the client, after compliance with the waiver requirements (signed informed consent of client or guardian), the subpoena will be honored and/or the court will be given full cooperation;

2. without the written informed consent of the client, when an employee is subpoenaed for a deposition or receives any other request for information regarding a client, the employee will:

a. inform the regional manager or designee of the request;

b. contact the attorney, or other person making the request, and explain the confidentiality of the case record information; and request that such attorney or other person obtain a signed informed consent to release information from the client or guardian;

c. inform the regional manager or designee if the above steps do not resolve the situation. In this case, the

regional manager or designee will then turn the matter over to the Louisiana Workforce Commission's legal counsel.

3. when an employee is subpoenaed to testify in court or to present case record information in court concerning a client, the employee is to do the following:

a. notify the regional manager or designee;

b. honor the subpoena;

c. take subpoenaed case record or case material to the place of the hearing at the time and date specified on the subpoena;

d. if called upon to testify or to present the case record information, inform the court of the following:

i. that the case record information or testimony is confidential information under the provisions of the 1973 Rehabilitation Act and amendments;

ii. the subpoenaed case record information is in agency possession;

iii. agency personnel will testify and/or release the case record information only if ordered to do so by the court.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23-3001.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Rehabilitation Services, LR 17:891 (September 1991), amended LR 20:317 (March 1994), LR 22:993 (October 1996), repromulgated LR 25:1265 (July 1999), amended by the Workforce Commission, Rehabilitation Services, LR 41:1775 (September 2015).

§107. Applicant/Client Appeal Rights

A. Administrative Review

1. The administrative review is a process which may be used by applicants/clients (or as appropriate the applicant's/client's representative) for a timely resolution of disagreements. However, this process may not be used as a means to delay a fair hearing conducted by an impartial hearing officer. The administrative review will allow the applicant/client an opportunity for a face to face meeting in which a thorough discussion with the regional manager or designee can take place regarding the issue(s) of concern. All administrative reviews render a final decision expeditiously after receipt of the initial written request from the applicant/client.

2. All applicants/clients must be provided written notification of appeal rights at the time of application, placement into a category in the order of selection, development of the Individualized Plan for Employment (IPE), and upon reduction, suspension, or cessation of vocational rehabilitation services. Services, including evaluations and assessment services and plan development (IPE), will continue during the administrative review appeal process unless the services being provided were obtained through misrepresentation, fraud, collusion, or criminal conduct on the part of the client.

3. In order to insure that an applicant/client is afforded the option of availing themselves of the opportunity to appeal agency decisions impacting their vocational rehabilitation case, written notification by the counselor and/or regional manager must include:

a. the agency's decision;

b. the basis for, and effective date of the decision;

c. the specific means for appealing the decision;

d. the applicant's/client's right to submit additional evidence and information, including the client's right to representation;

e. advise the applicant/client of the Client Assistance Program and how they can access the program, including the telephone number; and

f. the name and address of the regional manager who should be contacted in order to schedule an administrative review, mediation session, or fair hearing.

NOTE: All administrative reviews must be conducted in a manner which insures that the proceedings are understood by the applicant/client.

B. Mediation

1. The mediation process will provide the applicant/client, (or as appropriate the applicant's/client's representative) an opportunity for dispute resolution proceedings which are fair, effective, and expeditious. This process may be used by applicants/clients for a timely resolution of disputed findings of an administrative review; or as a direct avenue of appeal bypassing the administrative review option, but must occur prior to the fair hearing option.

2. The mediation process will also be offered to an applicant/client as an option at the time a formal request for a fair hearing is made. However, this process may not be used as a means to delay or supplant a fair hearing conducted by an impartial hearing officer.

3. The mediation process will be conducted by a qualified and impartial mediator as expeditiously as possible upon receipt of the initial written request from the applicant/client. A list of qualified impartial mediators will be maintained by Louisiana Rehabilitation Services.

4. The mediation process must be entered into voluntarily by all parties. Discussions that occur during the mediation session will be confidential and may not be used as evidence in any subsequent due process hearing or civil proceeding. The parties involved in the mediation session will be required to sign a confidentiality pledge prior to the commencement of such process. The Impartial Mediator must ensure that if an agreement is reached by the parties in dispute, this agreement is set forth in a written mediation agreement prior to the conclusion of the session. This written agreement is the only information from the mediation session that may be presented at any subsequent due process hearing or civil proceeding.

5. All applicants/clients must be provided written notification of appeal rights at the time of application, placement into a category in the order of selection,

development of the individualized plan for employment, and upon reduction, suspension, or cessation of vocational rehabilitation services. Services, including evaluations and assessment services and plan development (IPE), will continue during the mediation process unless the services being provided were obtained through misrepresentation, fraud, collusion, or criminal conduct on the part of the client.

6. In order to insure that an applicant/client is afforded the option of availing themselves the opportunity to appeal agency decisions impacting their vocational rehabilitation case, written notification by the counselor and/or regional manager must include:

a. the agency's decision (inclusive of an administrative review, if conducted);

b. the basis for, and effective date of the decision;

c. the specific means for appealing the decision;

d. the applicant's/client's right to submit additional evidence and information, including the client's right to representation at the mediation session or fair hearing;

e. advise the applicant/client of the Client Assistance Program and how they can access the program, including the telephone number; and

f. the name and address of the regional manager who should be contacted in order to schedule a mediation session or fair hearing.

NOTE: All mediation sessions must be conducted in a manner which insures that the proceedings are understood by the applicant/client.

C. Fair Hearing

1. The fair hearing process may be requested by applicants/clients to appeal disputed findings of an administrative review, or as a direct avenue of appeal bypassing the administrative review or the mediation process option. The fair hearing must be conducted by an impartial hearing officer within 60 days of the initial written request. At the time the fair hearing is requested, the applicant/client shall be offered mediation as an option to resolve a dispute.

2. An impartial hearing officer shall be selected on a random basis or by agreement between the Louisiana Rehabilitation Services Director and the applicant/client. This officer shall be selected from among a pool of qualified persons identified jointly by Louisiana Rehabilitation Services and members of the Louisiana Rehabilitation Council. The impartial hearing officer shall provide the decision reached in writing to the applicant/client and to Louisiana Rehabilitation Services within 30 days of completion of the hearing.

3. All applicants/clients must be provided written notification of appeal rights at the time of application, placement into a category in the order of selection, development of the Individualized Plan for Employment, and upon reduction, suspension, or cessation of vocational rehabilitation services. Services, including evaluations and assessment services and plan development (IPE), will continue during the fair hearing process unless the services being provided were obtained through misrepresentation, fraud, collusion, or criminal conduct on the part of the client.

4. In order to insure that the applicant/client is afforded the option of availing themselves the opportunity to pursue a fair hearing, written notification by the counselor and/or regional manager must include:

a. the agency's decision (inclusive of an administrative review and/or mediation agreement, if conducted);

b. the basis for, and effective date of, that decision;

c. the specific means for appealing the decision;

d. the applicant's/client's right to submit additional evidence and information, including the client's right to representation at the fair hearing;

e. advise the applicant/client of the Client Assistance Program and how they can access the program, including the telephone number; and

f. the means through which a fair hearing may be requested, including the name and address of the regional manager.

NOTE: All fair hearings must be conducted in a manner which insures that the proceedings are understood by the applicant/client.

D. Review of Fair Hearing Decisions

1. The impartial review for decisions rendered by impartial hearing officers is the final level of appeal within the Department of Social Services regarding disputes arising within Louisiana Rehabilitation Services. Subsequent to a decision being reached as a result of the impartial review by the Department of Social Services, any further pursuit of the issue by the applicant/client (or, as appropriate, the applicant/client's representative) or the agency must be by civil action through the public court system.

2. The decision of the impartial hearing officer will be final unless the applicant/client or the agency requests a review of the impartial hearing officer's decision by making a written request to the secretary of the Department of Social Services within 20 days of mailing the decision. The secretary cannot delegate the responsibility for making this final decision to any other officer or employee of Louisiana Rehabilitation Services. The applicant/client and the agency shall be provided an opportunity to submit additional evidence and information relevant to the final decision.

3. The Department of Social Services' secretary may not overturn or modify a decision of an impartial hearing officer, or part of such a decision, that supports the position of the applicant/client unless the secretary determines, based on clear and convincing evidence, that the decision of the impartial hearing officer is clearly erroneous on the basis of being contrary to the state plan, the Rehabilitation Act (including regulations implementing the Act) or any state regulation or policy that is consistent with the federal requirements specified in the Act.

4. The secretary shall provide the decision reached in writing to the applicant/client and to Louisiana Rehabilitation Services. This decision shall include a full report of the findings and grounds for the decision.

E. Civil Action. Any party aggrieved by a final decision from an impartial review by the Department of Social Services may bring civil action for review of such decision. The action may be brought in any state court of competent jurisdiction or in district court of the United States of competent jurisdiction without regard to the amount in controversy. If a party brings a civil action, the final decision of the Department of Social Services shall be implemented pending review by the court. In any action brought under this Subsection, the court shall:

1. receive the records relating to the hearing;

2. hear additional evidence at the request of a party to the action; and

3. base the decision of the court on the preponderance of the evidence, shall grant such relief as the court determines to be appropriate.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:664.4 and R.S. 36:477.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Rehabilitation Services, LR 17:891 (September 1991), amended LR 20:317 (March 1994), repromulgated LR 21:189 (February 1995), amended LR 24:958 (May 1998), LR 25:1266 (July 1999), LR 26:1634 (August 2000), LR 29:46 (January 2003).

§109. Eligibility and Ineligibility

A. Criteria for Eligibility

1. An individual is eligible for vocational rehabilitation services, if the individual:

a. has a physical or mental impairment which for such individual constitutes or results in a substantial impediment to employment; and

b. requires vocational rehabilitation services to prepare for, secure, retain, or regain employment; and

c. can benefit in terms of an employment outcome from vocational rehabilitation services.

B. Presumption of Benefit

1. An individual who meets the criteria in §109.A.1.a and b shall be presumed to be an individual who can benefit in terms of an employment outcome from vocational rehabilitation services, unless LRS can demonstrate by clear and convincing evidence that such individual is incapable of benefiting in terms of an employment outcome from vocational rehabilitation services due to the severity of the disability of the individual.

2. In making the demonstration of clear and convincing evidence, LRS shall explore the individual's abilities, capabilities, and capacity to perform in work situations, through the use of trial work experiences, except under limited circumstances when an individual cannot take advantage of such experiences.

a. Such trial work experiences shall be of sufficient variety and over a sufficient period of time to determine the eligibility of the individual or to determine clear and convincing evidence that the individual is incapable of benefiting in terms of an employment outcome from vocational rehabilitation services.

b. Trial work experiences shall also include appropriate supports and training.

C. Presumption of Eligibility

1. An individual who has a disability or who is blind as determined pursuant to Title II or Title XVI of the Social Security Act (42 U.S.C. 401 et seq. And 1381 et. seq.) shall be:

a. considered to be an individual with either a significant disability or a most significant disability, such determination to be made by LRS; and

b. presumed to be eligible for vocational rehabilitation services, provided that the individual intends to achieve an employment outcome.

2. LRS can find an SSDI or an SSI recipient ineligible for vocational rehabilitation services if LRS can demonstrate by clear and convincing evidence through the use of trial work experiences that the severity of the individual's disability prohibits the individual from benefiting from vocational rehabilitation services in terms of an employment outcome.

D. Determinations by Officials of Other Agencies

1. To the extent appropriate and consistent with the requirements of this Section, LRS will use determinations made by officials of other agencies, particularly education officials, regarding whether an individual satisfies one or more factors relating to whether an individual is an individual who has a physical or mental impairment which for such individual constitutes or results in a substantial impediment to employment.

E. Compliance Provisions

1. Nondiscrimination and Non-Exclusion

a. Eligibility decisions must be made without regard to sex, race, age, creed, color or national origin of the individual applying for services.

b. No group of individuals is excluded or found ineligible solely on the basis of type of disability.

c. No upper or lower age limit is established which will, in and of itself, result in a finding of ineligibility for any individual with a disability who otherwise meets the basic eligibility requirements specified in this manual.

d. Louisiana Rehabilitation Services does not impose a residence requirement. Illegal aliens, however, cannot be served. Disabled aliens who have a legal, unexpired work visa, and who otherwise meet the eligibility criteria, can be served.

F. Determination of Ineligibility

1. A determination of ineligibility for vocational rehabilitation services is made:

a. when LRS is in possession of clear and convincing evidence that an individual has no physical and/or mental impairment which constitutes or results in a substantial impediment to employment; or

b. when LRS is in possession of clear and convincing evidence that an individual with a disability does not require vocational rehabilitation services to prepare for, secure, retain, or regain employment; or

c. when LRS is in possession of clear and convincing evidence that an individual is incapable of benefiting from vocational rehabilitation services, including available supported employment services in terms of an employment outcome.

2. If an individual who applies for vocational rehabilitation services is determined (based on the review of existing data and, to the extent necessary, the assessment of activities of a trial work period as described under the presumption of benefit) not eligible for services, or if an eligible individual receiving services under an Individualized Plan for Employment (IPE) is determined to be no longer eligible for services, LRS shall:

a. provide an opportunity for full consultation with the individual or, as appropriate, the individual's representative; and

b. inform the individual, or as appropriate, the individual's representative, in writing of:

i. the reason(s) for the ineligibility determination; and

ii. an explanation of the means by which the individual may express and seek a remedy for an dissatisfaction with the determination, including the procedures for review by an impartial hearing officer and the availability of services from the Client Assistance Program; and

iii. a referral to any other agencies or programs from whom the individual may be eligible to receive services, including other components of the statewide workforce investment system.

3. Any ineligibility determination that is based on a finding that the individual is incapable of benefiting in terms of an employment outcome shall be reviewed:

a. within 12 months; and

b. annually thereafter, if such a review is requested by the individual or the individual's representative.

G. Use of Existing Information

1. To the maximum extent appropriate and consistent with the requirement of this Section, for purposes of determining eligibility of an individual for vocational rehabilitation services, LRS shall use information that is existing and current (the current functioning of the individual), including information available from the individual, programs, and providers, particularly education officials and the Social Security Administration.

H. Time Frame for Making an Eligibility Determination

1. LRS shall determine whether an individual is eligible for vocational rehabilitation services within a reasonable period of time, not to exceed 60 days, after the individual has submitted an application for the services unless:

a. exceptional and unforeseen circumstances beyond LRS' control preclude making an eligibility determination within 60 days and the individual agrees to an extension of time; or

b. LRS is exploring an individual's abilities, capabilities, and capacity to perform in trial work experiences.

I. Individual with a Significant Disability

1. Individuals eligible for vocational rehabilitation services are determined to be significantly disabled if the disabling condition and subsequent functional limitations fall into one of the following:

a. the individual is a recipient of Social Security Disability Insurance (SSDI); or

b. the individual is a recipient of Supplemental Security Income (SSI) by reason of blindness or disability (SSI based on age alone does not automatically render an individual significantly disabled); or

c. the individual is one:

i. who has a severe physical or mental impairment which severely limits one or more functional capacities (mobility, motor skills, communication, self-care, self-direction, interpersonal skills, work tolerance, or work skills) in terms of an employment outcome; and

ii. whose vocational rehabilitation can be expected to require multiple vocational rehabilitation services over an extended period of time (extended period of time means six months or longer); and

iii. who has one or more physical or mental disabilities resulting from:

(a). amputation;

(b). arthritis;

(c). autism;

(d). blindness;

(e). burn injury;

(f). cancer;

(g). cerebral palsy;

(h). cystic fibrosis;

(i). deafness;

(j). head injury;

(k). heart disease;

(l). hemiplegia;

(m). hemophilia;

(n). respiratory or pulmonary dysfunction;

(o). mental retardation;

(p). mental illness;

(q). multiple sclerosis;

(r). muscular dystrophy;

(s). musculoskeletal disorders;

(t) neurological disorders (including stroke and epilepsy);

(u). paraplegia, quadriplegia, other spinal cord conditions;

(v). sickle cell anemia;

(w). specific learning disability;

(x). end-stage renal disease; or

(y). another disability or combination of disabilities determined on the basis of an assessment for determining eligibility and vocational rehabilitation needs to cause comparable substantial functional limitations.

J. Functional Capacity Areas—Defined. Functional capacity areas are defined as follows: mobility, motor skill, communication, self-care, self-direction, interpersonal skills, work tolerance, and work skills.

K. Order of Selection

1. LRS follows an order of selection to ensure that individuals with the most significant disabilities receive priority for vocational rehabilitation services.

2. The following factors shall not be used either in determining the order of selection or in determining the placement category of eligible individuals:

a. any duration of residency requirement, provided the individual is present in the state;

b. type of disability;

c. age, gender, race, color, creed, or national origin;

d. source of referral;

e. type of expected employment outcome;

f. the need for specific services or anticipated cost of services required by an individual; or

g. the income level of an individual or an individual's family.

3. Prerequisite to placement in the order of selection assignment to a selection group is made after a determination of both of the following:

a. eligibility for Vocational Rehabilitation Services; and

b. significance of disability.

4. Selection Groups. In accordance with the criteria below, an individual is placed in one of the following:

a. Selection Group I—Most Significantly Disabled. An eligible individual is considered most significantly disabled when all of the following apply:

i. the individual meets the definition of an "individual with a significant disability" as defined in Subsection I above.

ii. the individual's significant physical or mental impairment seriously limits four or more functional capacity areas; and

iii. the individual's vocational rehabilitation is expected to require multiple vocational rehabilitation services over an extended period of time;

b. Selection Group II—The Most Significantly Disabled. An eligible individual is considered the most significantly disabled when the following apply:

i. the individual meets the definition of an "individual with a significant disability" as defined in Subsection I above.

ii. the individual's severe physical or mental impairment seriously limits three functional capacity areas; and

iii. the individual's vocational rehabilitation is expected to require multiple vocational rehabilitation services over an extended period of time.

c. Selection Group III—Significantly Disabled. An eligible individual is considered significantly disabled when the following apply:

i. the individual meets the definition of an "individual with a significant disability" as defined in Subsection I above.

ii. the individual's severe physical or mental impairment seriously limits two functional capacity areas; and

iii. the individual's vocational rehabilitation is expected to require multiple vocational rehabilitation services over an extended period of time.

d. Selection Group IV—Significantly Disabled. An eligible individual is considered significantly disabled when the following apply:

i. the individual meets the definition of an "individual with a significant disability" as defined in Subsection I above;

ii. the individual's severe physical or mental impairment seriously limits one functional capacity area; and

iii. the individual's vocational rehabilitation is expected to require multiple vocational rehabilitation services over an extended period of time.

e. Selection Group V—Non-Significantly Disabled. An individual is considered non-significantly disabled when:

i. the individual has a physical or mental impairment;

ii. the individual has been determined eligible for vocational rehabilitation services; and

iii. the individual does not meet the above stated criteria for an individual who is either "the most significantly disabled" or "significantly disabled."

f. Other Considerations

i. Individuals shall be placed in the highest priority category for which they are eligible.

ii. Upon placement into a priority category, individuals will be notified in writing of their category assignment and of their right to appeal their category assignment.

5. Scope of Services Available. LRS's order of selection shall not limit the scope of services available for eligible individuals within the selection group(s) being served.

6. Information and Referral. LRS will, as appropriate, refer those individuals in selection groups not being served to other components of the statewide workforce investment system that are best suited to address the specific employment needs of the individual with a disability.

7. Continuity of Services. LRS shall provide for continuity of services once an otherwise eligible individual is selected for and begins to receive services under an IPE, irrespective of the severity of the individual's disability.

8. Other Assurances

a. All individuals within a higher priority category for services shall be served before individuals in the next lowest priority category.

b. When it is impossible to serve all eligible individuals within a priority category, the individuals (in addition to referral to other components of the statewide workforce investment system) will be placed on a deferred services waiting list. Individuals on the deferred services waiting list will be served in chronological order based on the date of application.

c. If the order of selection is rescinded, individuals on deferred services waiting lists and in unserved categories will be contacted and served in chronological order based on the date of application.

9. Client Participation in the Cost of Services. All LRS policy relative to client participation in the cost of services shall apply to individuals receiving services under the order of selection.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:664.4 and R.S. 36:477.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Rehabilitation Services, LR 17:891 (September 1991), amended LR 20:317 (March 1994), LR 21:191 (February 1995), LR 22:993 (October 1996), LR 23:995 (August 1997), LR 25:1267 (July 1999), LR 27:211 (February 2001).

§110. Information and Referral Services

A. Purpose. The purpose of an expanded system of information and referral is as follows:

1. to ensure that individuals with disabilities who are not being served under LRS' Order of Selection receive accurate vocational rehabilitation information and guidance to assist such individuals in preparing for, securing, retaining, or regaining employment; and

2. to ensure that such individuals, as appropriate, are referred to other federal and state programs, including other components of the statewide workforce investment system.

B. Services

1. Information

a. As appropriate, to the extent that such services are not purchased by LRS, LRS will provide the following informational vocational rehabilitation services:

i. individualized guidance and counseling;

ii. individualized vocational exploration;

iii. supervised job placement referrals to work force Investment;

iv. assistance in securing reasonable accommodations.

2. Referral

a. As appropriate, LRS will make a referral to the appropriate federal or state program, including other components of the statewide workforce investment system, that is best suited to address the specific employment needs of the individual with a disability.

b. Information provided by LRS to the individual will contain:

i. a copy of the notice of the referral by LRS to the other agency carrying out the program; and

ii. information identifying a specific point of contact within the agency carrying out the program; and

iii. information and advice regarding the most suitable services to assist the individual to prepare for, secure, retain, or regain employment.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:664.4 and R.S. 36:477.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Rehabilitation Services, LR 25:1270 (July 1999).

§111. Comprehensive Assessment

A. Purpose

1. To make a determination of the employment-related needs of the individual with a disability.

2. To make a determination of the objectives, nature, and scope of vocational rehabilitation services required for development of the Individualized Plan for Employment (IPE) of an eligible individual.

B. Scope

1. To the extent additional data is necessary, LRS shall conduct a comprehensive assessment to determine the unique strengths, resources, priorities, concerns, abilities, capabilities, interests, and informed choice, of the eligible individual, including the need for supported employment.

2. The comprehensive assessment includes, to the degree needed, an assessment of the following:

a. personality;

b. interests;

c. interpersonal skills;

d. intelligence and related functional capacities;

e. educational achievements;

f. work experience;

g. vocational aptitudes;

h. personal and social adjustment;

i. employment opportunities;

j. medical, psychiatric, and/or psychological factors;

k. other pertinent vocational and educational factors;

l. appraisal of patterns of work behavior;

m. services needed to acquire occupational skills, develop work attitudes, work habits, work tolerance, and social and behavior patterns necessary for successful job performance, including the use of work in real job situations to assess and develop the capacities of the individual to perform adequately in a work environment.

C. Additional Considerations

1. The comprehensive assessment is limited to information necessary to identify the rehabilitation needs of the eligible individual and to develop the Individualized Plan for Employment (IPE).

2. LRS will use as a primary source of information, to the maximum extent possible and appropriate, existing information obtained for the purpose of determining eligibility.

3. LRS will use, to the maximum extent possible and appropriate, information provided by the individual and/or the individual's family.

D. Trial Work Periods

1. As appropriate, LRS will use trial work periods to explore an individual's abilities, capabilities, and capacity to perform in work situations.

2. An assessment will be conducted as often as necessary and at least every 90 days.

3. As appropriate, LRS will provide a referral for the provision of rehabilitation technology services to assess and to develop the capacities of the individual to perform in a work environment.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:664.4 and R.S. 36:477.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Rehabilitation Services, LR 17:891 (September 1991), amended LR 20:317 (March 1994), LR 25:1271 (July 1999).

§113. Individualized Plan for Employment (IPE)

A. Purpose of the Individualized Plan for Employment (IPE). The Individualized Plan for Employment, hereafter referred to as IPE, and all subsequent amendments assure that each individual determined eligible for vocational rehabilitation services or determined appropriate for extended evaluation services shall have a formal plan, for services.

B. Client Choice and Client Participation

1. The format of the IPE, to the maximum extent possible, will be in the language or mode of communication understood by the individual. Each individual's IPE will assure that the plan was developed in a manner empowering the individual with the ability to make an informed choice relative to the selection of an employment goal, intermediate objectives, services and service providers.

2. The client (or where appropriate, the client's parent, guardian or other representative) must sign the IPE and must receive a copy of the original IPE and all subsequent amendments.

C. Options for Developing an IPE

1. After completion of the assessment for determining eligibility and vocational rehabilitation needs (comprehensive assessment), LRS shall provide the eligible individual, or the individual's representative, in writing, and in an appropriate mode of communication, with information on the individual's options for developing an IPE including the following:

a. information on the availability of technical assistance, to the extent determined to be appropriate by the eligible individual, from a qualified vocational rehabilitation counselor in developing all or part of the IPE;

b. a description of the full range of components that shall be included in an IPE;

c. as appropriate, an explanation of agency guidelines and criteria associated with financial commitments concerning an IPE;

d. as appropriate, additional information the eligible individual requests or LRS determines necessary; and

e. as appropriate, information on the availability of assistance in completing designated LRS forms required in developing an IPE.

D. Mandatory Components of an IPE

1. Regardless of the approach selected by an eligible individual to develop an IPE, an IPE shall, at a minimum, contain components consisting of the following:

a. the specific employment goal chosen by the eligible individual, consistent with the unique strengths, resources, priorities, concerns, abilities, capabilities, interests, and informed choice of the eligible individual resulting unemployment, and to the maximum extent appropriate, in an integrated setting;

b. the specific vocational rehabilitation services (provided in the most integrated setting appropriate for the service and consistent with the individual's informed choice) needed to achieve the employment goal, including as appropriate, the provision of assistive technology devices and assistive technology services, and personal assistance services, including training and management of such services;

c. the approximate dates for the initiation of each service and the anticipated date for the completion of each service;

d. a time frame for the achievement of the employment goal;

e. the entity chosen to provide the vocational rehabilitation service and the methods to procure such services;

f. the criteria to evaluate the individual's progress towards achievement of the employment goal;

g. the terms and conditions of the IPE, including, as appropriate, information describing:

i. responsibilities of LRS;

ii. responsibilities of the eligible individual including those responsibilities the individual will assume in relation to the employment goal;

iii. if applicable, the participation of the eligible individual in paying for the costs of the planned services;

iv. responsibility of the eligible individual with regard to applying for and securing comparable benefits;

v. if applicable, the responsibilities of any other entities as the result of arrangements made pursuant to comparable services and benefits;

h. for an eligible individual with the most significant disabilities for whom an employment goal is in a supported employment setting, information identifying:

i. the extended services needed;

ii. the source of extended services, or to the extent that the source of extended services cannot be identified at the time of development of the IPE, a description of the basis for concluding that there is reasonable expectation that such source will become available;

i. a statement of the projected need for post-employment services;

j. the rights and remedies available to the individual through the Appeal Process and information regarding the availability of the Client Assistance Program.

E. Review and Amendment

1. The IPE shall be reviewed as least annually by a qualified vocational rehabilitation counselor and the eligible individual, or as appropriate, the individual's representative; and

2. amended, as necessary, by the individual, or as appropriate, the individual's representative, in collaboration with a qualified vocational rehabilitation counselor, (if there are substantive changes in the employment goal; the vocational rehabilitation services to be provided; or the service providers of the services (which amendments shall not take effect until agreed to and signed by the eligible individual, or as appropriate, the individual's representative, and a qualified vocational rehabilitation counselor employment by LRS).

F. IPE Document

1. An IPE for employment shall be a written document prepared on forms provided by LRS.

2. An IPE shall be developed and implemented in a manner that afford eligible individuals the opportunity to exercise informed choice in selecting an employment outcome, the specific vocational rehabilitation services to be provided under the IPE, the entity that will provide the vocational rehabilitation services, and the methods used to procure the services consistent with Informed Choice as defined in LRS in Chapter 1 of this policy manual.

3. An IPE shall be agreed to, and signed by, such individual or, as appropriate, the individual's representative; and approved and signed by a qualified vocational rehabilitation counselor employed by LRS.

4. A copy of the IPE shall be provided to the individual or, as appropriate, the individual's representative, in writing; and if appropriate, in the native language or mode of communication of the individual.

G. Content of the IPE for Case Closure as "Ineligible"

1. The IPE and amendments relating to case closure based on the decision that the individual is no longer capable of achieving an employment goal, must document with clear and convincing evidence that the individual is incapable of benefiting from vocational rehabilitation services, to include available supported employment services. Such decisions shall be reviewed and reassessed 12 months from the date of closure.

2. IPE closure documents shall set forth the rights and remedies available to the individual through the Appeal Process and provide information regarding the availability of the Client Assistance Program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:664.4 and R.S. 36:477.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Rehabilitation Services, LR 17:891 (September 1991), amended LR 20:317 (March 1994), LR 25:1271 (July 1999).

§115. Financial

A. Comparable Services and Similar Benefits

1. Determination of Availability

a. Prior to providing any vocational rehabilitation service to an eligible individual, except those services specified below in Subclauses c.i.(a)-(f), LRS will determine whether comparable services and benefits are available under any other program (other than a program carried out under Title IV, Rehabilitation Act Amendments of 1998) unless such a determination would interrupt or delay:

i. the progress of the individual toward achieving the employment outcome identified in the IPE of the individual;

ii. an immediate job placement; or

iii. the provision of such service to any individual at extreme medical risk.

b. Awards and Scholarships. For purposes of the determination of availability in Paragraph A.1 above, comparable benefits do not include awards and scholarships based on merit.

c. Exceptions to Use of Comparable Services and Benefits

i. The following vocational rehabilitation services can be provided without making a determination of the availability of comparable services and benefits:

(a). services provided through LRS's information and referral system;

(b). assessment for determining eligibility and vocational rehabilitation needs, including if appropriate, assessment by personnel skilled in rehabilitation technology;

(c). counseling and guidance, including information and support services to assist an individual in exercising informed choice;

(d). referral and other services needed to secure necessary services from other agencies through cooperative agreements, if such services are not available from LRS;

(e). job-related services, including job search and placement assistance, job retention services, follow-up services, and follow-along services;

(f). rehabilitation technology, including telecommunications, sensory, and other technological aids and devices.

B. Individual's Participation in the Cost of Vocational Rehabilitation Services

1. Neither a financial needs test nor a budgetary analysis of assets, income, and disability-related expenses shall be applied as a condition for furnishing any vocational rehabilitation service if the individual in need of the service has been determined eligible for Social Security benefits under Title II or Title XVI of the Social Security Act.

2. LRS will consider, through budgetary analysis of assets, income, disability-related expenses and comparable services and benefits, the financial need of eligible individuals; individuals who are participating in trial work periods; and individuals under extended evaluations for purposes of determining the extent of the individual's participation in the costs of certain vocational rehabilitation services.

a. Neither a financial needs test, nor a budgetary analysis, is applied and no financial participation is required as a condition for furnishing the following vocational rehabilitation services:

i. assessment for determining eligibility and priority for services, except those non-assessment services that are provided during an extended evaluation to explore the individual's abilities, capabilities, and capacity to perform in work situations (trial work periods);

ii. assessment for determining vocational rehabilitation needs;

iii. counseling, guidance, including information and support services to assist an individual in exercising informed choice;

iv. referral and other services to secure needed services from other agencies through cooperative agreements, if such services are not available from LRS;

v. job-related services, including job search and placement assistance, job retention services, follow-up services, and follow-along services;

vi. rehabilitation technology assessments;

vii. supported employment;

viii. on-the-job training;

ix. assistive technology devices and services (except hearing aids);

x. personal assistance services provided simultaneously with any of the above-listed vocational rehabilitation services; (Examples include attendant, reader, scribe, interpreter, ASL, braille, notetaker, and adjustment/orientation and mobility training services.)

b. A financial need analysis will be applied to determine the ability of the individual to financially contribute to the cost of the following vocational rehabilitation services:

i. physical restoration and/or mental restoration;

ii. hearing aids;

iii. maintenance;

iv. transportation;

v. books and supplies;

vi. occupational tools and equipment;

vii. cost services to other family members;

viii. occupational licenses;

ix. discretionary training fees such as car registration fees, student health service fees, etc. not included in tuition;

x. vocational and other training services, such as college/university, vocational and proprietary school training;

xi. other goods and services, not specifically identified in Subparagraph d below;

xii. post employment services consisting of the services listed above.

c. The only exception to Clause x above is as follows.

i. To preserve LRS' Continuity of Services provision in the Order of Selection, LRS exempted those eligible individuals who had an IWRP/IPE in effect prior to July 20, 1999, which is the date of the adoption of this rule change; therefore, Clause x in Subparagraph b above will only apply to those individuals who had an IWRP/IPE developed after July 20, 1999.

d. The following services are exempt from the application of a budget surplus, if the counselor determines that a surplus exists:

i. adjustment/orientation and mobility services;

ii. attendant services;

iii. reader services;

iv. scribe, notetaker/Braille services;

v. interpreter services;

vi. assistive technology services.

e. When it is determined by a counselor and an eligible client that self-employment, through establishment of a small business enterprise, is the best option for the client, the client must provide a minimum cash capital contribution of 20 percent of the total transaction. (Refer to LRS Policy on Small Business Enterprise.)

f. Individuals who do not provide LRS with necessary financial information to perform the budget analysis will be eligible only for those vocational rehabilitation services that are not conditioned upon an analysis to determine the extent of the individual's participation in the costs of such services.

g. Individuals who have defaulted on a student loan must make good faith efforts with the lender to clear the default or to defer payment before LRS will participate in the cost of the client's vocational rehabilitation program.

h. Simultaneously with the comprehensive assessment, at the annual review of the IPE, and at any time there is a change in the financial situation of either the client or the family, the counselor will perform a budget analysis for each client requiring vocational rehabilitation services as listed above in §115.B.2.b.i-xii. The amount of client participation in the cost of their vocational rehabilitation program will be based upon the most recent budget analysis at the time the relevant IPE or amendment is developed.

3. State and Departmental Purchasing Procedures. All applicable state, departmental and agency purchasing policies and procedures must be followed.

a. LRS does not purchase vehicles or real estate.

b. Fee Schedule. Services and rates of payment must be authorized in accordance with LRS's Medical Fee Schedule and LRS's Technical Assistance and Guidance Manual, Section 500 which lists approved service providers.

c. Approval of Service Providers

i. Any service provider approved by the agency must agree not to make any additional charge to or accept any additional payment from the client or client's family for services authorized by the agency.

ii. Relatives of vocational rehabilitation clients will not be approved as a paid service provider unless such individuals are professionally and occupationally engaged in the delivery of such services by offering their services to the general public on a regular and consistent basis.

d. Prior Written Authorization and Encumbrance

i. Either before or at the same time as the initiation or delivery of goods or services, the agency must be in possession of the proper authorizing document. The only exception is in an emergency situation.

ii. If oral authorization of approved services is made in an emergency situation, there must be prompt documentation, and the authorization must be confirmed in writing and forwarded to the provider of the services.

C. LRS shall determine an individual’s financial need for certain vocational rehabilitation services based on the individual’s disability related expenses, available assets, and a multiple of 250 percent of the current U.S. Department of Health and Human Services’ poverty guidelines.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23-3001.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Rehabilitation Services, LR 17:891 (September 1991), amended LR 20:317 (March 1994), LR 21:837 (August 1995), LR 24:959 (May 1998), LR 25:1273 (July 1999), LR 27:212 (February 2001), LR 27:1561 (September 2001), LR 29:47 (January 2003), LR 30:1488 (July 2004), LR 34:1038 (June 2008), amended by the Workforce Commission, Rehabilitation Services, LR 41:1775 (September 2015), repromulgated LR 41:2180 (October 2015).

§117. Vocational Rehabilitation Services

A. Vocational Rehabilitation Services are any services described in an IPE necessary to assist an individual with a disability in preparing for, securing, retaining, or regaining an employment goal that is consistent with the strengths, resources, priorities, concerns, abilities, capabilities, interests, and informed choice of the individual, including:

1. an assessment for determining eligibility and vocational rehabilitation needs by qualified personnel, including, if appropriate, an assessment by personnel skilled in rehabilitation technology;

2. counseling and guidance, including information and support services to assist an individual in exercising informed choice;

3. referral and other services to secure needed services from other agencies through cooperative agreements developed, if such services are not available from LRS;

4. job-related services, including job search and placement assistance, job retention services, follow-up services, and follow-along services;

5. vocational and other training services, including the provision of personal and vocational adjustment services, books, tools, and other training materials, except that no training services provided at an institution of higher education shall be paid for with funds under this Title unless maximum efforts have been made by LRS and the individual to secure grant assistance in whole or in part, from other sources to pay for such training;

6. to the extent that financial support is not readily available from a source other than LRS (such as through health insurance of the individual or a comparable service and benefit consistent with LRS policy, Chapter 115 Financial, Comparable Services and Similar Benefits) diagnosis and treatment of physical and mental impairments, including:

a. corrective surgery or therapeutic treatment necessary to correct or substantially modify a physical or mental condition that constitutes a substantial impediment to employment, but is of such a nature that correction or modification may reasonably be expected to eliminate or reduce such impediment to employment within a reasonable length of time;

b. necessary hospitalization in connection with surgery or treatment;

c. prosthetic and orthotic devices;

d. eyeglasses and visual services as prescribed by qualified personnel who meet state license laws;

e. special services, artificial kidneys, and supplies necessary for the treatment of individuals with end-stage renal disease; and

f. diagnosis and treatment for mental and emotional disorders by qualified personnel who meet state license laws;

7. maintenance for additional costs incurred while participating in and assessment for determining eligibility and vocational rehabilitation needs or while receiving other services under an IPE and needed by the individual to achieve an employment goal;

8. transportation, including adequate training in the use of public transportation vehicles and systems, that is provided in connection with the provision of any other service under an IPE and needed by the individual to achieve an employment goal;

9. on-the-job or other related personal assistance services provided while an individual is receiving other services under an IPE and needed by the individual to achieve an employment goal;

10. interpreter services provided by qualified personnel for individuals who are deaf or hard of hearing, and reader services for individuals who are determined to be blind, after an examination by qualified personnel who meet state license law;

11. rehabilitation teaching services, and orientation and mobility services for individuals who are blind;

12. occupational licenses, tools, equipment, and initial stocks and supplies;

13. technical assistance and other consultation services to conduct market analyses, develop plans and otherwise provide resources to eligible individuals who are pursuing self-employment or telecommuting or establishing a small business operation as an employment goal;

14. rehabilitation technology, including telecommunications, sensory, and other technological aids and devices;

15. transition services for students with disabilities that facilitate the achievement of the employment outcome identified in the IPE;

16. supported employment services;

17. services to the family of an individual with a disability necessary to assist the individual to achieve an employment outcome identified in the IPE;

18. specific post-employment services necessary to assist an individual with a disability to retain, regain, or advance in employment.

B. Scope of Services for Diagnosis and Treatment of Physical and Mental Impairments

1. LRS will not provide ongoing medical rehabilitation treatment services. After medical science has restored the individual to their maximum level of healthy functioning, LRS can provide vocational rehabilitation services to remediate residual deficits medical science could not restore, if such impairments impact the individual's ability to work. LRS can provide all necessary and appropriate vocational rehabilitation services if these services address these functional deficits and assist the individual in performing job functions and/or gaining knowledge or skills necessary to compete for and obtain employment.

2. LRS will not provide experimental services or supplies.

C. Scope of Services in Community Rehabilitation Programs (CRP)

1. Cost Effectiveness

a. In consideration of the cost-effective provision of services in Community Rehabilitation Programs, LRS shall first use publicly-supported Community Rehabilitation Programs to provide assessment services, both for diagnostic purposes and in the provision of trial work periods, before using either private or private-non profit Community Rehabilitation Programs.

b. The only exceptions shall be as follows:

i. the service in a publicly supported CRP is not available;

ii. provision of the service in a publicly supported CRP would create an extreme hardship for the client.

D. Scope of Establishment of Small Business Enterprise

1. The purpose of a self-employment goal for a client is to establish an individual with a disability in a small business enterprise that will provide sufficient income to support the individual and their family, thereby enabling the individual to meet ordinary daily living expenses and business costs. LRS desires to make self-employment an available option only when it is clearly demonstrated that self-employment is the best choice for the client.

2. All other applicable state, federal, and agency laws, policy and procedure must be followed, including state purchasing laws.

3. These policy provisions do not apply to the Randolph Sheppard Program.

4. Ultimate approval of funding a small business enterprise for an eligible vocational rehabilitation client lies with Louisiana Rehabilitation Services.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23-3001.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Rehabilitation Services, LR 17:891 (September 1991), amended LR 20:317 (March 1994), LR 25:1274 (July 1999), amended by the Workforce Commission, Rehabilitation Services, LR 41:1775 (September 2015).

§119. Transition Process for Individuals in Secondary Education Programs

A. Louisiana Rehabilitation Services (LRS) will become involved in the transition planning process for students with disabilities as early as possible to ensure that students' transition needs are met in a timely manner. LRS involvement in the transition process will provide for outreach, consultation, technical assistance and transition planning by agency personnel that facilitates the development and completion of students' individualized education programs (IEPs), as well as the completion and approval of eligible students' individualized plans for employment (IPEs) prior to their exit from the school system.

B. LRS' transition process is a coordinated set of vocational rehabilitation services planned for an eligible student with an official secondary education transition plan. Such vocational rehabilitation services for transition students are designed within an outcome-oriented process that promotes movement from school to post school activities, including post secondary education, vocational training, integrated employment (including supported employment), as well as referral services for available continuing and adult education, adult services, independent living or community participation.

C. LRS' vocational rehabilitation services for transition students shall be based upon the eligible student's individual needs, taking into account the student's abilities, preferences and interests, and shall include vocational guidance and counseling, functional vocational evaluation, instruction, community experiences, and other services and activities that may be necessary to facilitate achievement of the employment outcome identified on the IPE.

D. The coordination and collaboration between LRS and the state education system will assure continuity of services for eligible students.

E. The following provisions are the key points in LRS' transition process:

1. LRS will provide consultation and technical assistance (to the extent possible considering time and agency resources) as early as possible in the transition process, for students with disabilities who have an individualized education plan (IEP), have been under section 504 of the Rehabilitation Act, or is an individual with a disability under the Rehabilitation Act.

2. LRS will ensure the development and approval of IPEs for eligible students as early as possible in the transition process but, at the latest, by the time each student determined eligible for vocational rehabilitation services leaves the school setting.

F. The LRS director or designee shall have the sole responsibility for any exceptions to this policy on services for transition students.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23-3001.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Rehabilitation Services, LR 17:891 (September 1991), amended LR 20:317 (March 1994), repromulgated LR 25:1276 (July 1999), amended LR 30:1488 (July 2004), amended by the Workforce Commission, Rehabilitation Services, LR 41:1776 (September 2015).

§121. Conditions for Case Closure

A. Options for Closure. An individual's case can be closed at any time in the vocational rehabilitation process when it has been determined that:

1. the individual is not available for services;

2. the individual is ineligible;

3. appropriate planned services, expenditures and reports have been completed, and additional services are either unnecessary or inappropriate, except as may be provided under post-employment services.

B. Closure as Successfully Rehabilitated. An individual is determined to have achieved an employment outcome if the following requirements are met.

1. The provision of services under the individual's IPE has contributed to the achievement of the employment outcome.

2. The employment outcome is consistent with the individual's strengths, resources, priorities, concerns, abilities, capabilities, interests, and informed choice.

3. The employment outcome is in the most integrated setting possible, consistent with the individual's informed choice.

4. The individual has maintained the employment outcome for a period of at least 90 days.

5. The individual and the rehabilitation counselor consider the employment outcome to be satisfactory and agree that the individual is performing well on the job.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:664.4 and R.S. 36:477.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Rehabilitation Services, LR 17:891 (September 1991), amended LR 20:317 (March 1994), LR 23:994 (August 1997), repromulgated LR 25:1277 (July 1999).

Chapter 2. Community Rehabilitation Program

§201. Purpose

A. Principle. The Community Rehabilitation Program (CRP) shall establish its purpose and direct its activities toward accomplishment of that purpose.

1. The CRP shall state its goals and purposes clearly in appropriate publications for distribution to staff, those served, referral and payment sources, and the public.

2. The CRP shall describe the specific rehabilitation needs it is prepared to address as well as the programs and services available for that purpose.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:664.4 and R.S. 36:477.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Rehabilitation Services, LR 24:1954 (October 1998).

§203. Organization and Management

A. General Requirements

1. The CRP shall allow representatives of LRS and the appropriate program office in the performance of their mandated duties to monitor all aspects of a programs' functioning which impact on clients and to interview staff members, and clients.

2. The CRP shall make any information which the program is required to have under the present requirements and any information reasonably related to assessment of compliance with these requirements available to LRS and the appropriate program office.

a. The client's rights shall not be considered abridged by this requirement.

b. A CRP shall promptly provide all necessary and needed information for review.

c. A CRP shall provide adequate space and privacy for the surveyor to review records uninterrupted.

B. A CRP shall have an administrative file including:

1. documents identifying the governing body and/or ownership of the agency;

2. list of members and officers of the governing body and their addresses and terms of membership, if applicable;

3. by-laws of the governing body and minutes of formal meetings, if applicable;

4. a written statement of the program's mission and philosophy;

5. documentation of the agency's incorporation in the state;

6. organizational chart of the agency;

7. all leases, contracts and purchase-of-service agreements to which the center is a party;

8. insurance policies;

9. annual budgets;

10. master list of all consultants used by the center.

C. Organization and Administration. The CRP should engage in short-range and long-range planning, and develop or modify its services according to identified community needs and other LRS identified needs.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:664.4 and R.S. 36:477.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Rehabilitation Services, LR 24:1954 (October 1998), amended by Louisiana Workforce Commission, Office of Rehabilitation Services, LR 38:147 (January 2012).

§205. Governing Body

A. The membership of the governing body shall be representative of the community being served, and include person(s) with disabilities and/or families of person(s) with disabilities; or

B. a CRP has for-profit status, it shall have an advisory board which meets regularly and is representative of the community being served and include person(s) with disabilities and/or families of person(s) with disabilities.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:664.4 and R.S. 36:477.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Rehabilitation Services, LR 24:1955 (October 1998).

§207. Fiscal Accounting Systems and Record Keeping

A. The CRP must maintain adequate fiscal records and accountability so as to demonstrate, upon request, receipt

and utilization of funds from LRS. Each CRP must have an annual external audit and management letter and include a single audit where indicated or required by law.

B. The CRP must have adequate insurance to protect persons served.

C. A CRP shall not permit funds to be paid, or committed to be paid, to any corporate person to which any of the members of the governing body, administrative personnel or members of the immediate families or members of the governing body or administrative personnel have any direct or indirect financial interest, or in which any of these persons serve as an officer or employee, unless the services or goods involved are provided at a competitive cost or under terms favorable to the CRP. The CRP shall have a written disclosure of any financial transaction with the agency in which a member of the governing body, administrative personnel or his/her immediate family is involved.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:664.4 and R.S. 36:477.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Rehabilitation Services, LR 24:1955 (October 1998).

§209. Personnel Administration and Staff Development

A. Providers of vocational rehabilitation services shall use qualified personnel, in accordance with any applicable national or state-approved or recognized certification, licensing, or registration requirements, or in the absence of these requirements, other comparable requirements (including state personnel requirements), that apply to the profession or discipline in which that category of personnel is providing vocational rehabilitation services.

B. The CRP should encourage and support staff growth and development by providing opportunities for training, education and interaction with other persons in the rehabilitation field.

C. Providers of vocational rehabilitation services should take affirmative action to employ and advance in employment qualified individuals with disabilities.

D. The CRP will include among their personnel or make available personnel able to communicate in the native languages of individuals who have limited English proficiency if those native languages are spoken by substantial segments of the population of the state; and provide special modes of communication for individuals who rely on these special modes.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:664.4 and R.S. 36:477.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Rehabilitation Services, LR 24:1955 (October 1998).

§211. Physical Plan and Accessibility

A. The CRP must comply with accessibility requirements as established in Section 504 of the Rehabilitation Act of 1973, as amended, and by the Uniform Federal Accessibility Standards and the Americans with Disabilities Act of 1990.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:664.4 and R.S. 36:477.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Rehabilitation Services, LR 24:1955 (October 1998).

§213. Confidentiality and Case Records

A. General

1. All client information is confidential. All personal information in the possession of the CRP shall be used only for purposes directly connected with the administration of the program.

2. A CRP shall have written procedures for the maintenance and security of records specifying who shall supervise the maintenance of records, who shall have custody of records and to whom records may be released. Records shall be the property of the center and the center, as custodian, shall secure records against loss, tampering or unauthorized use.

B. Notification to Clients. Individuals asked to supply the CRP with information concerning themselves shall be informed of the CRP's need to collect confidential information and the policies governing its use, release, and access including:

1. a Consent to Release Case Record Information Form contained in case files which must document that individuals have been advised of the confidentiality of information pertinent to their case;

2. the principal purpose for which the CRP intends to use or release the requested data;

3. whether the individuals may refuse, or are legally required to supply the requested data;

4. any known consequence arising from not providing the requested information;

5. the identity of other agencies to which information is routinely released.

C. Release of Confidential Information. The case file must contain documentation concerning any information released with the individual's written consent.

D. No use shall be made of the name or picture of an individual served without the prior written consent of the individual, or his or her legal guardian.

E. Client Access to Data. When requested in writing by the involved individual or an authorized representative, clients or applicants have the right to see and obtain in a timely manner copies of any information that the CRP maintains on them, including information in their case files, except:

1. medical and/or psychological information, when the service provider states in writing that disclosure to the individual would be detrimental to the individual's physical or mental health;

2. medical, psychological, or other information which the CRP determines harmful to the individual;

NOTE: Such information may not be released directly to the individual, but must be released, with the individual's informed consent, to the individual's representative, or a physician or a licensed or certified psychologist.

3. personal information that has been obtained from another agency or organization. Such information may be released only by or under the conditions established by the other agency or organization.

F. Informed Consent. Informed consent means that the individual has signed an authorization to release information and such authorization is as follows:

1. in a language that the individual understands;

2. dated;

3. specific as to the nature of the information which may be released;

4. specifically designates the parties to whom the information may be released;

5. specific as to the purpose(s) for which the released information may be used;

6. specific as to the expiration date of the informed consent which must not exceed one year.

G. Release of Client Information without Informed Consent

1. The CRP must have written authorization to release confidential client information except in the following instance:

a. the CRP can release personal information without informed written authorization to protect the client or others when the client poses a threat to his/her safety or to the safety of others;

b. the CRP can only release that information necessary to protect the client or others;

c. the CRP or employee providing the information must carefully record all the facts and circumstances in the client's case record.

2. Examples of Emergency Situations. Emergency situations that might require release of personal information without informed written authorization could possibly include the following:

a. threats of murder and/or suicide;

b. threats to the safety of the workplace;

c. national security violations.

H. Confidentiality—HIV Diagnosis. Each time confidential information is released on applicants or clients who have been diagnosed as HIV positive, a specific informed written consent form must be obtained.

I. Location of Records

1. The CRP shall keep on site the following records:

a. all IPE's and Agency Service Plans;

b. all client plan updates and progress notes;

c. all client evaluations;

d. a copy of the CRP's policy and procedure manual(s);

e. a copy of the employee's criminal history check.

2. All other records shall be kept in the main office of the CRP, if applicable.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:664.4 and R.S. 36:477.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Rehabilitation Services, LR 24:1955 (October 1998).

§215. Available Programs and Program Outcomes

A. Intake and Orientation. The CRP should make a reasonable effort to obtain necessary case file information before planning services for an individual, and make appropriate use of such information throughout the individual's program.

B. Assessment and Program Planning

1. The CRP should review referral information and, using appropriate appraisal and evaluation procedures, determine the individual's need for services.

2. The CRP's policies shall specify that the individual's plan for rehabilitation services will be established with his or her involvement and that it will focus on the individual's achievement of independent functioning in the community and/or achievement or maintenance of the individual's appropriate level of employment outcome or independent functioning.

C. Program Management, Treatment, and Training

1. The CRP shall develop a procedure to insure that services provided each individual are organized, coordinated and reviewed regularly by a program manager or service coordinator.

2. The individual's progress toward the planned goals shall be measured and recorded monthly and communicated to the individual, the referral source, LRS and any other authorized parties.

3. Individually scheduled conferences shall take place on a timely basis to review the progress of the individual served and to develop further plans, if necessary. The results shall be recorded in the case record and communicated to LRS and any other appropriate parties.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:664.4 and R.S. 36:477.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Rehabilitation Services, LR 24:1956 (October 1998).

§217. Public Relations and Marketing

A. Principle. The CRP shall be actively involved in its community to create acceptance, understanding and support for its goals and services.

B. The CRP should thoroughly investigate the employment and related needs of its current and future users, and organize its services to meet those needs.

C. The CRP should conduct its activities in a manner that encourages understanding, cooperation and support from the public, from other agencies and from other groups in the community.

D. The CRP should function in the community as an advocate for those it serves by promoting positive attitudes toward them, and developing awareness of their legal rights.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:664.4 and R.S. 36:477.
HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Rehabilitation Services, LR 24:1956 (October 1998).

§219. Vocational Modules

A. A Vocational Evaluation/Assessment shall utilize professionally accepted methods based on client-specific needs to result in a suitable and appropriate employment goal.

B. A Community Based Situational Assessment shall be client-specific to result in a suitable and appropriate employment goal.

C. Employment Preparation (Job Opportunities Workshop, Job Readiness, Job Retention Training, etc.)

1. The employment preparation should be provided according to the needs identified in the evaluation/assessment and IPE.

2. The employment preparation should be provided according to goals that are specific and individualized to meet the demands of the employment goal.

3. The employment preparation should result in skills required for successful placement of the individual into a job in the community based on the designated employment goal.

D. Job Development/Placement

1. Job development and placement of LRS clients should meet the employment goal cited in the IPE.

2. The CRP shall provide documentation of the job development efforts, which are consistent with the employment goal on the client's IPE.

3. Client shall be placed into an integrated competitive employment position and be compensated at or above the minimum wage, but not less than the customary or usual wage paid by the employer for the same or similar work performed by individuals who are not disabled.

4. Individuals should be followed in their employment progress for at least 90 days and should be contacted at 6 month and 12 month intervals to ascertain progress.

5. The CRP shall comply with the federal minimum standards as identified in Federal Performance Indicator 1.2 of 34 CFR Part 361.84 in regards to the percentage of closed cases with a successful employment outcome.

6. The CRP shall maintain and disseminate client employment performance information to LRS staff.

E. Job Retention

1. The CRP is required to provide either on-site or off-site job supports which will enable the client to adjust to the demands of the integrated work environment and to retain employment.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:664.4 and R.S. 36:477.
HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Rehabilitation Services, LR 24:1957 (October 1998), amended by Louisiana Workforce Commission, Office of Rehabilitation Services, LR 38:148 (January 2012).

§221. Monitoring and Quality Assurance

A. The CRP will be subject to site reviews by appropriate program and fiscal staff to validate compliance with CRP Standards. A review may be conducted at any point in the vendorship process.

B. The CRP will be subject to an annual renewal process.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:664.4 and R.S. 36:477.
HISTORICAL NOTE: Promulgated by Louisiana Workforce Commission, Office of Rehabilitation Services, LR 38:148 (January 2012).

§223. Denial or Revocation of Vendorship

A. Initial approval or renewal of vendorship can be denied or revoked for the following reasons, but is not limited to:

1. failure to meet any of the standards;

2. failure to provide required documents for the annual renewal process or formal request for documents by LRS;

3. cruelty or indifference to the welfare of consumers, and validated instance of abuse;

4. failure of the provider to hire or maintain qualified staff;

5. any act of fraud such as falsifying or altering documents;

6. unresolved findings from previous audits.

B. If a Community Rehabilitation Program vendorship is denied or revoked, the CRP has the right to appeal this decision. Appeals procedures are as follows.

1. Louisiana Rehabilitation Services will notify the Community Rehabilitation Program of the reason(s) for denial or revocation and its right to appeal in writing to be sent by certified mail.

2. The CRP may appeal the decision by submitting a written request to the LRS Director. The appeal shall clearly identify all issues in dispute; contain a full statement of the CRP's position with respect to each issue, pertinent facts and reasons to support the CRP's position, and specify the actions requested. This written request must be post marked within 30 days of the CRP's receipt of the LRS' notification of denial or revocation.

3. The LRS Director shall make a decision on the appeal and notify the CRP in writing within 30 days of the date the appeal was received.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:664.4 and R.S. 36:477.

HISTORICAL NOTE: Promulgated by Louisiana Workforce Commission, Office of Rehabilitation Services, LR 38:148 (January 2012).

Chapter 3. Commission for the Deaf

§301. Name

A. The name shall be the Louisiana Commission for the Deaf, hereinafter referred to as the "commission," established by Act 629 of the 1980 Regular Session of the Legislature, and signed into law by the governor, on July 24, 1980.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:2352 and R.S. 47:1061.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Rehabilitation Services, Commission for the Deaf, LR 13:93 (February 1987), amended LR 17:388 (April 1991), repromulgated LR 21:589 (June 1995).

§303. Rules of Operation

A. Purpose. The purpose of the *Rules of Operation* is to provide for the orderly conduct of the affairs of the commission.

B. *Robert's Rules of Order, The Modern Edition*, shall govern meetings of the commission, and its committees, boards, and task forces.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:2352 and R.S. 47:1061.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Rehabilitation Services, Commission for the Deaf, LR 13:93 (February 1987), amended LR 17:388 (April 1991), LR 21:589 (June 1995).

§305. Role and Function

A. Duties. The duties of the commission, as mandated by law, are to:

1. promote, coordinate, and facilitate accessibility of all public and private services to deaf people;

2. serve as advocate for the needs and rights of deaf people;

3. collect information concerning deafness and provide for the dissemination of this information;

4. develop and implement a statewide program to ensure continuity of services to deaf people;

5. inform deaf citizens, parents, and families of the availability of programs and services for deaf adults and children at all levels of state and local government;

6. promote the training of interpreters and assist in the establishment of interpreter training programs;

7. certify interpreters and maintain a registry of certified interpreters:

a. the commission shall not promulgate any rule or regulation which denies a hearing-impaired person's right to choose his interpreter;

b. the commission shall exempt from the requirement of certification interpreters of religious services;

c. the commission shall establish and appoint a five-person Interpreter Certification Board, at least one of whom shall be deaf and at least one of whom shall be an educational interpreter:

i. the ICB shall report to and advise the commission in the administration of the Certification Program for Sign Language Interpreters, including any specialized interpreters;

ii. the Interpreter Certification Board shall make recommendations to the commission regarding interpreter certification programs;

d. the commission shall charge reasonable fees to cover the administrative costs of applications, examinations, and renewal of certificates;

e. the commission shall waive examination requirements for applicants with valid certification from another state, based on the board's recommendation for reciprocity/recognition;

f. the commission shall adopt procedures under which certificates will expire;

g. the commission shall specify procedures outlining grounds for denying, suspending, or revoking interpreters' certificates, and for disciplining interpreters;

h. the certification of interpreters by the Louisiana Commission for the Deaf shall not be applicable to the Louisiana State Department of Education or to any of the local educational agencies and special board schools throughout the state under the supervision of the Board of Elementary and Secondary Education. Such certification shall incorporate an evaluation conducted by the Interpreter Certification Board of the Louisiana Commission for the Deaf;

8. provide all services of the commission to deaf people with visual impairments;

9. provide interpreter services to the deaf in accordance with rules and regulations adopted by the commission; and

10. establish, administer, and promote a statewide program to provide access to all public telecommunication services by persons who are deaf, deaf/blind, and others such

as severely hearing impaired or severely speech impaired. This program shall include, but is not limited to:

a. the purchase and distribution of telecommunication devices and related devices for the person listed above;

b. the creation of a dual party relay system to function as a communications bridge between members of the deaf and hearing citizenry; and

c. the creation of a Telephone Access Program Board;

d. the purchase and distribution of assistive hearing devices including hearing aids:

i. eligibility for the Hearing Aid Program will include an economic need factor of 250 percent of Federal poverty guidelines, an age factor of 50 years and older, a hearing loss factor of 40 decibels or greater, and individuals may not be eligible for any other state or federal program providing assistance with hearing aid purchases. Younger individuals who meet all other eligibility requirements may be considered on an individual basis according to funding availability.

B. Role. The commission will provide priorities and guidelines to the staff to assist them in fulfilling the duties listed in §305.A, above.

C. Function. The commission shall serve as a mechanism for providing input to the secretary of the Department of Social Services; through the director of Louisiana Rehabilitation Services, to the state legislature and the governor on the needs of individuals who are deaf and/or hard of hearing. This will include the preparation of an annual report which will review the status of services available to the people who are deaf and hard of hearing in Louisiana, and to recommend priorities for appropriate programs and services to this population.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:2352 and R.S. 47:1061.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Commission for the Deaf, LR 13:94 (February 1987), amended by the Department of Social Services, Office of Rehabilitation Services, Commission for the Deaf, LR 17:388 (April 1991), LR 21:589 (June 1995), LR 24:494 (March 1998), LR 28:2373 November 2002).

§307. Composition of the Commission

A. Membership. Membership of the commission is specified by law and consists of 17 members. Ten members are legislated by position held, and seven members are appointed by the governor. These members include:

1. legislated members:

a. the coordinator of Vocational Rehabilitation Services to the Deaf, or designee;

b. the president of the Association of the Deaf, or designee;

c. the president of the Registry of Interpreters for the Deaf, or designee;

d. the superintendent of the School for the Deaf, or designee;

e. the secretary of the Department of Social Services, or designee;

f. the superintendent of the Department of Education, or designee;

g. the secretary of the Department of Labor, or designee;

h. the speaker of the House of Representatives, or designee;

i. the president of the Senate, or designee; and

j. the secretary of the Department of Health and Hospitals, or designee;

2.a. appointed members:

i. two lay members who shall be deaf persons;

ii. two lay members who shall be parents of deaf individuals;

iii. two lay members who shall be professionals who work with deaf individuals; and

iv. one lay member who shall be a hard-of-hearing person;

b. each appointment by the governor shall be submitted to the Senate for confirmation. Beginning in 1984, every appointment shall be submitted by the governor to the Senate for confirmation every two years. Newly appointed members of the commission shall participate in an orientation to the role and functions of the commission through the office of the commission.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:2352 and R.S. 47:1061.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Rehabilitation Services, Commission for the Deaf, LR 13:94 (February 1987), amended LR 17:388 (April 1991), LR 21:589 (June 1995), LR 24:495 (March 1998).

§309. Terms of Membership Service

A. Terms of service are as follows.

1. Legislated members serve on the commission by virtue of position held and serve as long as the position is maintained unless a legislated member resigns.

2. The designated commission members shall serve on the commission so long as each member maintains the position for which each was originally appointed or until a legislated member resigns.

3. All appointed members shall serve for four years. In the event a vacancy occurs, the appointment shall be made for the length of the unexpired term. Vacancies of appointed members occurring other than by expiration of term in the membership shall be filled by the governor.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:2352 and R.S. 47:1061.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Rehabilitation Services, Commission for

the Deaf, LR 13:94 (February 1987), amended LR 17:388 (April 1991), LR 21:589 (June 1995).

§311. Replacements

A. Appointed members may, upon submitting written notice, resign from the commission. The commission shall recommend, upon a majority vote, a list of possible names for the governor's consideration to replace the resigning appointed member.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:2352 and R.S. 47:1061.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Rehabilitation Services, Commission for the Deaf, LR 13:95 (February 1987), amended LR 17:388 (April 1991), LR 21:589 (June 1995).

§313. Privileges of Membership

A. Privileges to be exercised at commission, committee, board, or task force meetings shall include making motions, debating, calling for vote on motions, voting, and other such privileges as are usual and customary.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:2352 and R.S. 47:1061.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Rehabilitation Services, Commission for the Deaf, LR 13:96 (February 1987), amended LR 17:388 (April 1991), LR 21:589 (June 1995).

§315. Liability

A. Members shall not be held personally liable, either individually or as a body, for actions of the commission, its committees, boards, task forces, or employees (R.S. 9:2792.4).

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:2352 and R.S. 47:1061.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Rehabilitation Services, Commission for the Deaf, LR 13:96 (February 1987), amended LR 17:388 (April 1991), LR 21:589 (June 1995).

§317. Compensation

A. Members of the commission shall receive no salary for their services, but shall be reimbursed for travel and other approved expenses incurred in the performance of their duties in accordance with travel regulations of the division of administration. Officers of the commission shall be reimbursed for necessary and other expenses incurred in the performance of their duties.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:2352 and R.S. 47:1061.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Rehabilitation Services, Commission for the Deaf, LR 13:96 (February 1987), amended LR 17:388 (April 1991), LR 21:589 (June 1995).

§319. Designees

A. In the case of emergency, illness, conflict, etc., a legislated member, who is a state agency head, may name a designee, if written notice of intent is provided to the chair as a letter of introduction. Such designee shall enjoy the privileges of membership including voting privilege during the meeting.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:2352 and R.S. 47:1061.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Rehabilitation Services, Commission for the Deaf, LR 13:94 (February 1987), amended LR 17:388 (April 1991), LR 21:589 (June 1995).

§321. Officers of the Commission

A. Eligibility. Only members of the commission may be officers of the commission.

B. Officers. The elected officers of the commission shall be the chair, vice-chair, and secretary. Officers shall be elected biennially, at the December meeting.

C. Term of Office. The newly elected officers shall assume responsibilities immediately following the close of business at the election meeting and shall be limited to two consecutive terms of office.

D. Duties and Responsibilities

1. The chair shall:

a. set the time and place of the regular meetings of the commission;

b. prepare/approve an agenda for each meeting;

c. call special meetings of the commission;

d. call meetings of the executive committee;

e. preside at meetings of the commission and executive committee;

f. chair or name/designate an individual to chair the Telephone Access Program Committee;

g. name an individual to chair the Interpreter Certification Board;

h. appoint members and chairs of committees and task forces;

i. oversee the work of the executive director;

j. be an ex-officio member of all committees, boards, and task forces; and

k. perform other duties as assigned by the commission.

2. The vice-chair shall:

a. preside at meetings of the commission when the chair is absent; and

b. perform other duties as assigned by the commission or delegated by the chair.

3. The secretary shall:

a. review records of all meetings for accuracy; and

b. perform other duties as assigned by the chair.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:2352 and R.S. 47:1061.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Rehabilitation Services, Commission for the Deaf, LR 13:94 (February 1987), amended LR 17:388 (April 1991), LR 21:589 (June 1995).

§323. Officers Resignations

A. Commission officers may resign from office upon written resignation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:2352 and R.S. 47:1061.
HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Rehabilitation Services, Commission for the Deaf, LR 13:94 (February 1987), amended LR 17:388 (April 1991), LR 21:589 (June 1995).

§325. Termination of Office

A. Officers may be removed for cause by a two-thirds vote of the membership of the commission.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:2352 and R.S. 47:1061.
HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Rehabilitation Services, Commission for the Deaf, LR 13:95 (February 1987), amended LR 17:388 (April 1991), LR 21:589 (June 1995).

§327. Meeting Protocol

A. The commission, its committees and task forces may adopt, at any meeting, such rules of procedures and order as deemed necessary or convenient, provided these rules do not conflict with the *Rules of Operation*.

B. Regular Meetings. The commission, its committees and task forces shall meet at least once each quarter of the fiscal year, and may meet more often as deemed necessary by the respective chair or membership, not to exceed 12 meetings per year.

C. Special Meetings/Emergency Meetings. Special meetings or emergency meetings may be called by the commission, committee or task force chair, or at the request of two-thirds of the respective membership.

D. Notice

1. Regular Meetings. A minimum of two weeks notice must be provided members for regularly scheduled meetings.

2. Special Meetings/Emergency Meetings. Notice and purpose of special meetings should be provided members at least three days prior to the meeting. In no case shall a meeting be called with less than 24 hours notice.

E. Quorum. No binding business may be conducted an any meeting attended by fewer than 51 percent of the respective membership. Recommendations may be made at meetings attended by fewer than 51 percent of the membership and shall remain as such and not be binding until ratified by an appropriate vote of the membership.

F. Place of Meetings. Regular meetings shall be held at a location most convenient and barrier-free to the membership and the public.

G. Special Support Services. Interpreters and other necessary ancillary support shall be provided for members and participants at all meetings and appropriate functions.

H. Agenda. An agenda for all meetings shall be provided to the respective membership at least two weeks in advance. The commission may take up a matter not on the agenda upon approval of two-thirds of the members present at a public body meeting (R.S. 42:41-12).

I. Minutes

1. Regular Meetings/Special Meetings/Emergency Meetings. Minutes shall be taken at each meeting by commission secretary or his/her designee, and copies of these minutes shall be provided at least two weeks prior to the next regular meeting, to the respective membership to be adopted/ratified. Minutes shall be made available to the public upon request.

2. Executive Sessions. Minutes of routine executive sessions shall be maintained in confidential files not to be shared with the public.

J. Attendance. The missing of two consecutive, regularly scheduled meetings by any individual member/designee, for reason other than just cause, may constitute grounds for a reasonable request for replacement. (See §311, Replacements).

K. Open Meetings. All meetings shall be open, except when, by a majority vote of the members present, it is deemed necessary to move into executive session (R.S. 42:41-12).

L. Observers. Interested persons may observe meetings, except for executive sessions, and may, at the invitation of the chair, address the membership and be addressed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:2352 and R.S. 47:1061.
HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Rehabilitation Services, Commission for the Deaf, LR 13:95 (February 1987), amended LR 17:388 (April 1991), LR 21:589 (June 1995).

§329. Committees, Boards and Task Forces

A. Appointment

1. The commission or the executive committee may create standing committees, ad hoc committees, or task forces to carry out the objectives of the commission, and to address issues of significance to individuals who are deaf, in Louisiana.

2. Standing committees or the executive director of the Louisiana Commission for the Deaf may recommend names of individuals for their own standing committees, ad hoc committees, or task forces to the chair of the Louisiana Commission for the Deaf to be approved and ratified by the commission.

B. Duties. The duties of such bodies shall be to identify and/or research needs and make recommendations to the commission about ways these needs can be met and to

provide a report for each meeting of the commission on the progress of activity.

C. Definition

1. Standing committees may be comprised of commission and/or noncommission members. Composition of committees shall generally reflect a state-wide nature if possible.

2. Maximum membership on any standing committee shall be 11. Terms of membership shall be for two years with re-appointment permitted.

3. Ad hoc committees may be comprised of commission and/or noncommission members. Such committees have a specified purpose and period of existence. Maximum membership on any ad hoc committee shall be nine.

4. Task Forces may be comprised of commission and/or noncommission members and shall consist of a minimum of five members and a maximum number of nine members. The duration and focus of each task force shall be specified, depending on the objectives of the task force.

D. Executive Committee

1. The purpose of the executive committee shall be to respond to urgent matters that preclude the entire commission assembling. Decisions made by the executive committee must be ratified by the commission at its next meeting.

2. The composition of the executive committee shall be the commission's elected officers (chair, vice-chair, and secretary) and two commission members elected by the commission.

3. The executive director may participate at the discretion of the chair in the deliberations of the executive committee as a nonvoting member.

4. If a member of the executive committee becomes unable to function as a member of that body, the executive committee will select an alternate member from the membership of LCD to assume his/her responsibilities on the executive committee. The membership of LCD will be polled to affirm the person selected for membership on the executive committee pending formal approval by LCD at its next regularly scheduled meeting.

E. Interpreter Certification Board (ICB)

1. Purpose. The Interpreter Certification Board, under the auspices of the Louisiana Commission for the Deaf, shall conduct the implementation and maintenance of state sign language certification.

2. Composition Criteria. The Interpreter Certification Board (ICB) shall consist of five members who shall meet the following criteria:

a. possess a minimum of Louisiana State Certificate Level V; or possess Certificate of Deaf Interpretation/Provisional from the Registry of Interpreters for the Deaf; and

b. demonstrate participation in activities of the Deaf Community, such as the Louisiana Association of the Deaf (LAD) and the Louisiana Registry of Interpreters for the Deaf (LRID); and

c. be active in the provision/utilization of interpreting services;

d. one member must be deaf and one member must be an educational interpreter.

3. Appointments

a. While the Commission for the Deaf, the Association of the Deaf, the Registry of Interpreters for the Deaf, and the state Department of Education shall each recommend one person with the criteria in §329.E.2 to serve on the Interpreter Certification Board, final appointment rests with the commission, as delegated by legislation.

b. The chair of the commission shall appoint the ICB chair and one member making sure the minimum number of members who are deaf is met.

4. Officers. Officers of the board shall include the following:

a. chair—appointed by the chair of the commission;

b. vice-chair—selected by members of the board; and

c. recorder—selected by members of the board.

5. Terms of Service. The term of appointment to the ICB shall be for a period of two years, beginning in July of 1994. Terms of service between organizational members will be staggered such that at no time will the entire board be replaced. The first rotation off the board will occur in July 1995. It is understood that the term of office of the chair of the ICB is at the discretion of the chair of the commission. This will require organizations to recommend members every two years to replace the member rotating off the board.

6. Role of Executive Director. The executive director shall:

a. be a nonvoting member;

b. maintain established policies, procedures, and standards of the State Certification Program;

c. conduct and maintain examination(s) and records of the State Certification Program;

d. provide technical assistance; and

e. prepare the ICB budget for review and approval.

7. Role of the ICB. Responsibilities may include, but not necessarily be limited to the following:

a. develop and recommend policies, procedures, and standards for the State Certification Program for Interpreters;

b. revise the State Certification Program;

c. identify, appoint, and train examiners;

d. serve as the first level of appeal for any filed grievances;

e. select times, dates, and locations of screening, written and performance examinations;

f. review the ICB budget and make recommendations; and

g. recommend to the commission to award certificate of candidates successfully completing State Certification Program examinations.

8. Role of the ICB Chair. Responsibilities shall include, but not necessarily be limited, to the following:

a. superintend the progress and agenda of each meeting; and

b. oversee the State Certification Program.

9. Role of the Commission. Responsibilities shall include, but not necessarily be limited, to the following:

a. administer final approval of the State Certification Program;

b. provide funding for the activities of the State Certification Program and the ICB;

c. receive applications from candidates;

d. produce and disseminate certificates to successful candidates;

e. include certified persons in the LCD directory of certified interpreters;

f. provide staff support and services to the board, to include but not necessarily be limited to recording, distribution, maintenance of meeting minutes, report preparation and distribution, securing interpreters and meeting site arrangements;

g. participate in grievances as necessary; and

h. others as necessary.

F. Telephone Access Program Board (TAPB)

1. Purpose. The purpose of the Telephone Access Program Board is to assist the commission in the implementation and maintenance of LAC 67:VII.305.A.10.

2. Responsibilities of the TAPB. Responsibilities include, but are not necessarily limited to:

a. make recommendations to the commission for the selection of staff, rate/surcharge, operating budget, and other related matters;

b. develop and determine functions of the staff;

c. approve the selection of appropriate equipment and develop, evaluate, and modify the distribution system for specialized equipment;

d. approve the development, implementation, evaluation, and modification of a year-round, 24-hour dual-party relay system; and

e. engage in other related activities not inconsistent with legal mandates, nor otherwise prohibited by law.

3. Membership of the TAPB. Membership shall consist of the following individuals:

a. the chair of the Louisiana Commission for the Deaf or designee;

b. the president of the Louisiana Association of the Deaf, Inc., or designee;

c. a representative of the Louisiana deaf community, selected by the Louisiana Commission for the Deaf;

d. the president of the Louisiana Acadiana Deaf-Blind Citizens, Inc., or designee;

e. a representative of the Louisiana hard of hearing community, selected by the Louisiana Commission for the Deaf;

f. a representative of Louisiana Technology Assistive Network (LATAN), selected by LATAN;

g. the chairman of the Public Service Commission, or designee;

h. one public member, selected by the Public Service Commission;

i. a representative of Bell South, selected by Bell South Telephone Company;

j. a representative of the independent phone companies, selected by the Louisiana Telephone Association;

k. a representative of AT&T, selected by AT&T;

l. the superintendent of the Louisiana School for the Deaf or designee, ex-officio;

m. the president of the Louisiana Registry of Interpreters for the Deaf, or designee, ex-officio.

4. Officers of the TAPB. The structure shall provide for:

a. the chair or designee of the Commission for the Deaf to preside as chair of the TAPB;

b. election of a vice chair to preside in the absence of the chair and to perform such duties as are assigned by the TAPB, or delegated by the chair;

c. election of other officer(s) of the TAPB, as deemed necessary;

d. a designee to be appointed should an individual member not be able to serve. A designee may be appointed for the normal term of office of the member designated to serve; and

e. the commission staff to provide services to the committee, to include but not necessarily be limited to recording, distribution, and maintenance of meeting minutes, report preparation and distribution, and meeting site arrangements.

5. Committees. Standing committees shall be:

a. Telephone Relay Services, which shall serve to make recommendations to implement LAC 67:VII.305.A.10.a.; and

b. TDD distribution, which shall serve to make recommendations to implement LAC 67:VII.305.A.10.b.

G. Interagency Communications Committee (ICC):

1. Purpose. The purpose of the ICC is to:

a. establish a network of personnel to notify the deaf community of developments (LAC 67:VII.305.A.3.);

b. empower the deaf community through invitational leadership development and continuous information sharing (§305.A.5.);

c. assist in the development of priorities for the commission (§305.A.4);

d. meet on a regular basis to develop plans of action to ameliorate existing problems (§305.A.4); and

e. act as referral of all concerns and issues in relating to deafness and the deaf community services.

2. Officers. Officers of the committee shall include the following:

a. chair—appointed by the chair of the commission;

b. vice-chair—appointed by the chair of the ICC; and

c. the ICC chair shall appoint the membership according to the below criteria.

3. Membership. The membership shall consist of nine individuals selected or appointed by the ICC chair as follows:

a. Region I—New Orleans;

b. Region II—Baton Rouge;

c. Region III—Shreveport/Monroe;

d. Region IV—Lafayette;

e. Region V—Lake Charles; and

f. LAD representative;

g. LRID representative;

h. parent representative;

i. nominal representative (such as a hard of hearing representative, LCD representative or deaf-blind representative).

4. Duties of the Officers. Duties of the officers are:

a. chair:

i. superintend the development of agenda;

ii. moderate all meetings of the ICC; and

iii. sign approved meeting minutes;

b. vice-chair: assume the duties of the chair as requested.

5. Terms of Office

a. Officers will be appointed for a period of two years, beginning in 1993.

b. Members will be appointed for a period of two years, beginning in 1993. The first appointment of members shall be five members for two years, and four members for one year such that at no time is the entire committee replaced.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:2352 and R.S. 47:1061.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Rehabilitation Services, Commission for the Deaf, LR 13:96 (February 1987), amended LR 17:388 (April 1991), LR 21:589 (June 1995), LR 24:495 (March 1998).

§331. Executive Director

A. Appointment. The executive director shall be appointed by the secretary of the Department of Social Services upon recommendation by the commission of a maximum of the three top candidates, after reviewing, screening and interviewing the applicants.

B. Qualifications. The executive director shall be a trained professional, having experience with individuals who are deaf and skilled in the use of sign language. The executive director may be either a person who is deaf or a person with normal hearing, but preference shall be given to a person who is deaf.

C. Duties. The executive director shall:

1. implement the legislated mandates, goals and objectives, and commission policies, procedures, and guidelines under direction of the commission and in coordination with the chairman:

a. administer programs and services of the commission;

b. conduct the work of the commission;

c. provide staff support to and assist in coordinating the work of the commission-related boards, committees, subcommittees, and task forces;

d. arrange and provide for interpreters and necessary special activities in all commission meetings and activities;

e. arrange for public notice and publicity of commission meetings and events;

f. plan, organize, direct, and implement commission programs and objectives affecting all phases of direct and indirect services available to the deaf community;

g. submit recommendations regarding statewide plans, policies, and procedures to the commission;

h. provide policy and procedure interpretation to public and private organizations and individuals on contract for services to the deaf community;

i. analyze program data, goals and objectives to determine effectiveness;

j. recommend need for legislative proposals or changes to the commission;

k. write position papers for the commission;

l. assist in the development of proposals providing innovative service programs for deaf community;

m. coordinate committees and task forces to accomplish the goals and objectives of assigned projects;

n. represent the commission through participation on committees, councils, task forces and boards which stimulate and guide the development of community interest in the commission objectives; and

o. interpret, disseminate, establish priorities, and ensure implementation of commission policies and procedures affecting delivery of deaf community services;

2. prepare and submit a two-year proposed budget for the commission's review and approval prior to submitting the budget to the director for the Louisiana Rehabilitation Services, and exercises budgetary and contracted responsibility over the commission's administrative and program services:

a. develop and submit a two-year commission budget according to schedule provided by the Louisiana Rehabilitation Services;

b. monitor and verify all expenditures and provide expenditure summaries to the commission at scheduled meetings; and

c. negotiate, develop, and monitor contracts, grants, and fee schedule with individuals or public and private organizations;

3. implement the Interpreter Certification Board [R.S. 46:2352(7)] in administering final approval of the State Certification Program; provide funding for the activities of the State Certification Board; receive applications from candidates; produce and disseminate certificates; include certified interpreters in the directory of certified interpreters; provide staff support; and participate in grievances;

4. implement the Telephone Access Program Committee [R.S. 46:2352(10)] in the provision of specialized telephone equipment for the deaf, hard of hearing, deaf-blind, and speech impaired, distribution of such equipment, and training in the use of specialized equipment, as well as assistance in areas of telephone relay services;

5. initiate and negotiate agreements with individuals, public and private organizations, and agencies for the provision of services and administrative matters. Also, negotiate and participate in preparation of grants, contracts, agreements, and fee-for-proposals and make recommendations;

6. promote, coordinate, and facilitate accessibility of all public and private services to deaf people in general:

a. serve as an advocate for the needs and rights of deaf people;

b. collect information concerning deafness and provide for the dissemination of the information;

c. inform deaf citizens, parents, and families of the availability of programs and services for deaf adults and children at all levels of state government through networking with related agencies and organizations such as the Louisiana School for the Deaf, Louisiana Association of the Deaf, Louisiana Registry of Interpreters for the Deaf, and Deaf Action Centers for the Deaf;

d. write quarterly and annual reports of the commission activities and events;

7. provide direct supervision to the commission staff, including recommending the appointment, promotion, discipline, or dismissal of commission staff in accordance with agency, DSS and Civil Service rules for personnel administration;

8. direct the analysis and evaluation of the deaf community service delivery systems to maintain efficient and effective programs;

9. participate in the deliberations of the commission and its executive committee as a nonvoting member; and

10. perform any other duties as may be assigned by commission chairman.

D. Dismissal. The commission may recommend to the secretary of the Department of Social Services the removal of the executive director, for cause, by a two-thirds vote of the membership of the commission. Such office, once vacated, shall be filled as soon as possible.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:2352 and R.S. 47:1061.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Rehabilitation Services, Commission for the Deaf, LR 13:95 (February 1987), amended LR 17:388 (April 1991), LR 21:589 (June 1995), LR 24:495 (March 1998).

§333. Amendments

A. The rules of operation may be amended by a two-thirds vote of the membership of the commission with written notice of the proposed changes provided to commission members at least 10 days in advance of a regular or special commission meeting at which they are to be proposed. Amendments become effective only after submission and approval is gained through the rulemaking procedure established by the state.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:2352 and R.S. 47:1061.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Rehabilitation Services, Commission for

the Deaf, LR 13:96 (February 1987), amended LR 17:388 (April 1991), LR 21:589 (June 1995).

Chapter 5. Business Enterprises Program Manual

§501. Purpose

A. The purpose of the Business Enterprises Program Manual is to provide uniform rules and regulations for the administration of Business Enterprises Programs operated by the state licensing agency.

B. The purpose of Chapter 5 is to set forth the legal authority from which these rules are derived, to proclaim the mission of the Business Enterprises Program, define terms used in this body of policy, and to set forth the organization of the Business Enterprises Program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:664.4 and R.S. 36:477.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Rehabilitation Services, LR 25:527 (March 1999).

§503. Mission of the Business Enterprises Program

A. Mission. The mission of the Business Enterprises Program is to establish and maintain business enterprises operated by qualified individuals who are blind.

B. Goals. The goals for the Business Enterprises Program are:

1. provide employment opportunities for qualified persons who are blind by establishing and maintaining Business Enterprises Program Facilities; and

2. administer a continuing process of career development and upward mobility for qualified persons in the Business Enterprises Program.

C. Objectives. The objectives of the Business Enterprises Program are:

1. establish and equip Business Enterprises Program Facilities;

2. assure availability of Business Enterprises Program Licensed Managers;

3. provide management support services to Business Enterprises Program Licensed Managers;

4. develop and maintain standards of conduct and a system of accountability for state licensing agency staff;

5. develop and maintain standards of conduct and a system of accountability for Business Enterprises Program Licensed Managers;

6. establish and maintain procedures for quality customer service; and

7. attain the program's financial stability through its administration in an operationally efficient and cost-effective manner.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:664.4 and R.S. 36:477.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Rehabilitation Services, LR 25:527 (March 1999).

§505. Federal Legal Authority

A. The Rehabilitation Act of 1973 as amended by the Rehabilitation Act Amendments of 1986 and 1992. In accordance with federal law under title I of the Rehabilitation Act of 1973 (Public Law 93-112) as amended, including the Rehabilitation Act amendments of 1986 (Public Law 99-506), and the Rehabilitation Act amendments of 1992 (Public Law 102-569), vocational and other rehabilitation services are offered to individuals with disabilities through Louisiana Rehabilitation Services.

B. Code of Federal Regulations—Volume 34, Sections 361, 363, 365, and 370.

C. The Randolph-Sheppard Act of 1936, as amended (20 U.S.C. Section 107 et seq.), authorizes designated State Licensing Agencies to establish and administer Business Enterprises Programs in their respective states. The law locates the State Licensing Agency (SLA) for the program in the individual state or territorial agency which offers vocational rehabilitation services for individuals who are blind under the Rehabilitation Act of 1973, as amended (29 U.S.C. 31-42).

D. Primary regulatory authority for the Business Enterprises Program is found at 34 CFR Part 395. Other regulatory guidelines impacting the Business Enterprises Program are found at 34 CFR Part 361 and 32 CFR 260.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:3022.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Rehabilitation Services, LR 25:527 (March 1999), amended by the Workforce Commission, Rehabilitation Services, LR 41:2177 (October 2015).

§507. State Legal Authority

A. Louisiana Revised Statutes—R.S. 49:664. Section 6B (1)(b) (Legislative Act that created the Department of Health and Hospitals), R.S. 36:477(c) (Legislative Act that created the Department of Social Services).

B. Louisiana Act 19 of 1988, effected the merger of the Division of Rehabilitation Services with the Division of Blind Services to form Louisiana Rehabilitation Services.

C. R.S. 23.3023 gives priority to the blind in operation of vending stands, vending machines, cafeterias, and other small business concessions to be operated in the portions, or portions thereof, of properties that those state agencies, boards, commissions, and institutions own, maintain, occupy, or control. No other vending stands, vending machines, cafeterias, or small business concessions shall be operated on the same premises with vending stands, vending machines, cafeterias, or other small business concessions operated, or contemplated, under the blind business enterprise program, except as provided by R.S. 23:3023.

D. R.S. 46:2641 provides for the establishment of the Blind Vendors Trust Fund.

E. R.S. 49:950 (et seq.) is the Administrative Procedure Act for the authority to promulgate rules.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:3022.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Rehabilitation Services, LR 25:528 (March 1999), amended by the Workforce Commission, Rehabilitation Services, LR 41:2178 (October 2015).

§509. Definitions

A. The following words or terms, when used in this manual, shall have the following meaning unless the context clearly indicates otherwise.

Acquired Stock—that stock in which the licensed manager has accrued equity and which the state licensing agency, in conjunction with the licensed manager or licensed managers involved, has determined is suitable for use. Stock in which the licensed manager has not accrued equity is not acquired stock and remains the property of the state licensing agency.

Act—the Randolph-Sheppard Vending Facility Act (Public Law 74-732), as amended by Public Law 83-565 and Public Law 93-516, 20 U.S.C., Ch. 6A, Sec. 107.

Active Participation—an ongoing process of good faith negotiations between Louisiana Rehabilitation Services and the Louisiana Blind Vendors elected committee to achieve joint planning of policies, procedures, standards, rules, and regulations affecting the overall operation of the Business Enterprise Program prior to implementation by Louisiana Rehabilitation Services. Louisiana Rehabilitation Services shall have final authority and responsibility in all decisions relative to the administration and operation of the Business Enterprise Program. Active participation shall include the requirements set forth in 34 CFR 395.14(b)(1), (3), and (4).

BEP—the Business Enterprises Program of the state licensing agency which provides self-employment opportunities for qualified persons who are blind.

BEP Administrator—the person who has responsibility for the operation of the Business Enterprises Program in the state.

Blind Person—a person who, after examination by a licensed physician skilled in the diseases of the eye or by a licensed optometrist, has been determined to have:

a. not more than 20/100 central visual acuity in the better eve with correcting lenses; or

b. an equally disabling loss of the visual field as evidenced by a limitation to the field of vision in the better eve to such a degree that its widest diameter subtends an angle of no greater than 20 degrees.

Blind Services Executive Director—the person responsible for administering and coordinating services to the blind and severely visually impaired individuals of the state.

Blind Vendors Trust Fund—monies collected from certain *vending machines* located on state, federal, and other property, and the disbursement thereof.

Board or *Commission*—the governing body for the state licensing agency.

Business Consultant (BC)—an individual who provides consultative and management services to those business enterprises and licensed managers in the area of the state to which the consultant is assigned.

Business Enterprise—an approved business administered by the *state licensing agency*. See definition of v*ending facility*.

Business Enterprises Program (BEP)—the Business Enterprises Program services available to establish business enterprises for persons who are blind.

Cafeteria Facility—a food dispensing business enterprise capable of providing a broad variety of prepared foods and beverages (including hot meals) primarily through the use of a line where customers serve themselves from displayed selections. A cafeteria may be fully automatic or provide limited waiter or waitress service. Table and/or booth seating facilities are always provided.

Commissioner—the Commissioner of the Rehabilitation Services Administration (RSA) who exercises approval authority for the Federal government under the Randolph-Sheppard Act.

Committee—the State Elected Committee of Licensed Managers.

Consumer—any person who has made application for the state licensing agency's services and has been determined by the state licensing agency to be eligible for services.

Contract—a written agreement between the state licensing agency and officials in control of federal or other property to establish a business enterprise.

Contract Labor—a person or company that performs duties or services not a part of the regular duties of the business enterprise.

Counselor—Rehabilitation Services counselors assigned to the State Licensing Agency's Program of Vocational Rehabilitation.

Director or Executive Director—the chief administrator of the state licensing agency.

Displaced Licensing Manager—a licensed manager who has been displaced from his or her business enterprise through no fault of his or her own.

Dry/Wet Facility—all facilities providing manual dispensing of prepackaged articles, refreshments, and services.

Elected Committee of Licensed Managers (ECM)—the committee elected biennially by licensed managers in accordance with 34 CFR 395.14.

Equipment, Expendable—items having a relatively small cost per item and having a relatively short life expectancy.

Equipment, Non-Expendable—all necessary equipment which requires a relatively high capital outlay and has a normal life expectancy of several years.

Federal Property—any building, land, or other real property owned, leased, or occupied by any department, agency, or instrumentality of the United States (including the Department of Defense and the United States Postal Service), or any other instrumentality wholly owned by the United States.

Federal Regulations—the regulations issued pursuant to the Randolph-Sheppard Act.

Grantor—a federal, state, county, parish, city government, private corporation, company, partnership, or individual who grants a permit or enters into an agreement with the state licensing agency to operate a business enterprise on its/their property.

Grantor's Agreement—a written document between a grantor and the state licensing agency which sets forth the terms, conditions and responsibilities of all parties to the agreement for the operation of a business enterprise on private and/or public property.

Gross Receipts—all revenue including sales tax.

Initial Stock and Supplies—those resalable items or supplies necessary for the opening and operation of a specific type of business enterprise.

Interim Manager—a licensed manager appointed to manage a business enterprise on a temporary basis.

License—a written instrument issued by the state licensing agency to a person who is blind, authorizing such person to manage a business enterprise.

Licensed Manager—a licensed individual who has signed an agreement with the state licensing agency to manage a Randolph-Sheppard Business Enterprise under the supervision of the state licensing agency, or an individual awaiting assignment to a business enterprise.

Licensing Agency—the state licensing agency, which has been designated by the commissioner, pursuant to the *Act*, to issue licenses to persons who are blind for the management of business enterprises.

Management Services—supervision, inspection, quality control, consultation, accounting, regulating, in-service training, and other related services provided on a systematic basis to support and improve vending facilities operated by blind vendors. Management services do not include those services or costs which pertain to the on-going operation of an individual facility after the initial establishment period.

Manager's Agreement—an agreement between a licensed manager and the state licensing agency, establishing basic terms and conditions for management of a business enterprise.

Net Earnings or *Net Profits*—gross profit after deducting operating expenses and set-aside collected.

Net Proceeds—the amount remaining from the sale of articles or services of business enterprises and a vending machine income or other income accruing to licensed managers after deducting the cost of such sales and other authorized expenses excluding set aside charges required to be paid by the licensed managers.

Net Sales—the sum total of sales, excluding sales tax.

Other Income—money received by a licensed manager from sources other than over the counter and machine sales.

Other Property—property which is not federal property and on which business enterprises are established or operated by the use of any funds derived in whole or in part, directly or indirectly, from the operation of vending facilities on any federal property.

Permit—the official approval given a state licensing agency by a department, agency, or instrumentality in control of the maintenance, operation and protection of federal property or person in control of other property where the state licensing agency is authorized to establish a business enterprise.

Purveyor—an approved source of supply for food, beverages, supplies, or services.

Randolph-Sheppard Act—Public Law 74-732 as amended by Public Law 83-565, Public Law 93-516, and Public Law 95-602, 20 U.S.C. Chapter 6A, Section 107.

Routine/Preventive Maintenance—the regular care, upkeep, and cleaning of equipment used in a business enterprise whether owned by the state licensing agency or the licensed manager.

Rules and Regulations—the instrument written by the state licensing agency and approved by the Secretary of Education setting forth the conduct and operation of the Business Enterprises Program.

Salable Stock—products comprising the merchandise available for sale to the public.

Satellite Business Enterprise—a business enterprise without a permanently assigned licensed manager which is being operated by a licensed manager who is also operating his/her regularly assigned business enterprise.

Satisfactory Site—an area determined by the BEP Administrator to have sufficient space, electrical and plumbing outlets, and other such accommodations as prescribed by the Act, for the location and operation of a business enterprise in accordance with applicable health laws and building codes.

Secretary—the United States Secretary of Education.

Snack Bar Business Enterprise—a business enterprise engaged in selling limited lines of refreshment and prepared food items necessary for a light meal service.

State Licensing Agency (SLA)—the state agency that issues licenses to persons who are blind for the operation of business enterprises on public and/or private property.

State Property—lands, buildings, and/or equipment owned, leased, or otherwise controlled by the state.

Statewide Average Manager Earnings—the average annual manager earnings as calculated each year for the RSA-15 Report.

Trainee—a qualified Vocational Rehabilitation consumer, who when referred to the Business Enterprises Program, is placed in training to prepare for licensing under the rules and regulations of the state licensing agency.

Training Program—the program of study and/or on-the-job training provided to prospective and/or experienced licensed managers.

Vending Facility—automatic vending machines, cafeterias, snack bars, cart service, shelters, counters, and such other appropriate auxiliary equipment which may be operated by licensed managers and which is necessary for the sale of newspapers, periodicals, confections, tobacco products, foods, beverages, and other articles or services dispensed automatically or manually and prepared on or off the premises in accordance with all applicable health laws and including the vending or exchange of changes for any lottery authorized by state law and conducted by an agency of a state within such state [CFR 34, Part 395.1(x)].

Vending Machine—any coin or currency operated machine which dispenses articles or services, except any machine operated by the United States Postal Service for the sale of postage stamps or other postal products and services. Machines providing services of a recreational nature and telephones shall not be considered to be vending machines.

Vending Machine Facility—an automatic coin or currency operated business enterprise which dispenses a variety of food and refreshment items and services. Including in this category would be interstate highway locations.

Vocational Rehabilitation Services—those services as defined in the Rehabilitation Act, 1973, as amended.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:3022.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Rehabilitation Services, LR 25:528 (March 1999), amended by the Workforce Commission, Rehabilitation Services, LR 41:2178 (October 2015).

§510. Promulgation of Business Enterprises Program Policies

A. Rules and procedures, that is, the policies governing the administration of the Business Enterprises Program are developed and maintained in accordance with the Randolph-Sheppard Act (20 U.S.C. Section 107 et seq.), the Rehabilitation Act (29 U.S.C. 31-43), and the Louisiana Administrative Procedure Act (R.S. 49:950 et seq.).

B. The rulemaking authority is Louisiana Rehabilitation Services, hereinafter referred to as the state licensing agency (SLA). Promulgation of rules and procedures governing the Business Enterprises Program follows the process Louisiana Administrative Procedure Act (R.S. 49:950 et seq.).

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:3022.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Rehabilitation Services, LR 25:530 (March 1999), amended by the Workforce Commission, Rehabilitation Services, LR 41:2178 (October 2015).

§511. Policy of Non-Discrimination

A. The state licensing agency assures that it shall not exclude from participation, deny the benefits of the program or otherwise subject any person to discrimination because of the person's gender, age, physical or mental impairment, religion, race, creed, national origin, or political affiliation in accordance with the Civil Rights Act of 1964, Section 504 of the Rehabilitation Act of 1973 as amended, and the Americans with Disabilities Act of 1990.

B. Every licensed manager of a Business Enterprises Program Facility shall operate the business enterprise in such a manner that no person shall be subject to discrimination because of the person's gender, age, physical or mental impairment, religion, race, creed, national origin, or political affiliation whether that person is a present or prospective supplier, customer, employee or other individual who might come into contact with the enterprise.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:664.4 and R.S. 36:477.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Rehabilitation Services, LR 25:530 (March 1999).

§513. Accessibility of Written Materials

A. Upon advance request, all written materials will be provided to each licensed manager in a format accessible to that manager, to the extent practical. It is the responsibility of the licensed manager to inform the business consultant of the accessible format needed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:664.4 and R.S. 36:477.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Rehabilitation Services, LR 25:530 (March 1999).

§515. Organization of State Licensing Agency

A. Louisiana Rehabilitation Services (LRS), is designated as the sole state agency under a state plan for vocational rehabilitation services approved pursuant to the provisions of the Rehabilitation Act of 1973, (29 U.S.C. ch. 16) and approved by Rehabilitation Services Administration as the state licensing agency.

1. Louisiana Rehabilitation Services Director. The senior administrative official of the agency.

2. Blind Services Executive Director. Administers and coordinates services to the blind.

3. Central Office Staff. The program is administered by the Randolph-Sheppard Program Manager who reports to the Blind Services Executive Director.

4. Field Staff. The state is divided into specific geographic areas for the purpose of administering the Business Enterprises Program, and a business consultant (Randolph-Sheppard Management Analyst) is assigned to each area. The RSMA provides the link between the licensed managers and the central office and is authorized to provide the services and is obligated to assist and support the licensed managers in complying with the rules and regulations of the Rehabilitation Services Administration and the SLA relative to business enterprises established under the Randolph-Sheppard Act.

5. Licensed Managers. The individual enterprises established by the Business Enterprises Program are managed by licensed managers who derive their livelihood from net profits of the operations. Licensed managers are subject to instructions, policies, rules and regulations of the Business Enterprises Program, but are not employees of the program, the SLA, or the State of Louisiana. They do, however, have a contractual relationship with the SLA and are required to manage the facilities in accordance with established rules and regulations.

6. Duties of the Business Enterprises Program Administrator. The duties of the Business Enterprises Program Administrator are:

a. assures compliance with all applicable rules, regulations and statutory provisions;

b. prepares program budgets and approves expenditures;

c. plans for the development and expansion of the program and upgrading of existing facilities;

d. drafts program policy, operating instructions and regulation changes as needed to make the program more efficient or to conform to current legislative mandates;

e. promotes the program to the general public; and

f. actively participates with the ECM in accordance with 34 CFR 395.14.

7. Duties of the RSMA. The duties of the Randolph-Sheppard Management Analyst are:

a. assists each licensed manager to operate the business enterprise within applicable rules and regulations;

b. initiates negotiations for new facilities;

c. oversees the development of new installations;

d. conducts public relations activities which promote a positive image of the program to existing and potential host organizations, rehabilitation workers, consumers, and the general public;

e. provides management services to licensed managers;

f. collects and analyzes data on the operation of each business enterprise in order to provide technical assistance and for monitoring and reporting purposes; and

g. communicates with the district EMC on district operations.

8. Guidelines for Communication. Communication of information is to occur so that the best interests of the Business Enterprises Program are served. This is best accomplished when information is shared and acted upon by those who can respond most effectively in the circumstances. The administrative staff of the SLA is responsible for assuring that active communication among SLA staff and licensed managers contributes to the effective operation of the entire Business Enterprises Program. Management services and operational matters are best handled by communicating with the appropriate RSMA. Subparagraphs 515.A.8.a-c describe appropriate levels to which various types of communication should be directed.

a. Communications Originated by a Licensed Manager. The licensed manager is to maintain appropriate and professional communication with customers and building management personnel. The point of communication for licensed managers with the SLA is the RSMA. Circumstances in which a licensed manager may contact the Business Enterprises Program Administrator are:

i. when a problem cannot be resolved through normal channels;

ii. when there is a specific complaint concerning the conduct and/or behavior of a RSMA; or

iii. when an emergency develops and the RSMA is not available.

b. Randolph-Sheppard Management Analyst Communication. An RSMA is expected to maintain open and ongoing communications with all the licensed managers in his/her area. Should a situation require immediate action beyond the RSMA's authority, he/she may contact the proper administrative official. All significant information will be communicated to the BEP Administrator at the earliest opportunity.

c. Written Communications. Any communication of major consequence is to be documented in writing. Situations needing immediate action are to be addressed promptly by the appropriate official and subsequently documented in writing. Records of written documentation will be maintained in accordance with agency policy. Written requests require written responses.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:3022.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Rehabilitation Services, LR 25:530 (March 1999), amended by the Workforce Commission, Rehabilitation Services, LR 41:2178 (October 2015).

§517. Management Services Provided by the State Licensing Agency

A. Overview of Management Services. Management services include inspection, quality control, consultation, accounting, annual fiscal accountability reviews, regulating, in-service training, and other related services on a systematic basis to support and improve vending facilities.

B. Technical Assistance Services. The SLA shall provide each licensed manager with:

1. recommendations for optimizing business enterprise profitability;

2. recommendations and feedback on business enterprise operations including quality, service and cleanliness;

3. possible solutions to problems recognized by the licensed manager or brought to the licensed manager's attention by BEP staff or the grantor;

4. providing upward mobility and in-service training; and

5. explanation of the SLA's procedures, policies, and standards.

C. Responsibilities of the Randolph-Sheppard Management Analyst. The RSMA will consult with the respective ECM representative on district issues, as appropriate. RSMAs are required to assist licensed managers in their district to meet Business Enterprises Program requirements through review and consultation on:

1. compliance with applicable laws and program regulations;

2. hiring employees in accordance with rules and regulations;

3. compliance with all conditions in the licensed manager's license;

4. assuring that merchandise is:

a. sold in accordance with the grantor's agreement;

b. neither purchased or sold on credit; and

c. of high quality, adequately stocked, and properly displayed;

5. standards for employee personal appearance and hygiene;

6. quality customer service;

7. maintenance of sanitation and safety standards;

8. proper maintenance of equipment;

9. communications and working relationships between the licensed manager and customers, suppliers, employees, grantor, and the general public;

10. SLA and other agency requirements for record keeping; and

11. licensed manager performance evaluations.

D. Business Consultant Business Enterprise Visits. Business consultant business enterprise visits shall be made as often as necessary to ensure the continued success of the business enterprise. The business consultant will work with licensed managers to maximize profits. Each time the business consultant visits a business enterprise, he/she will complete a business enterprise visitation report.

E. Business Enterprise Reviews. The business consultant shall complete an inspection of the business enterprise using a standard form as needed. The report shall be discussed with and signed by the licensed manager.

F. Visits by the Program Administrator. The program administrator will periodically visit business enterprise facilities.

G. Assistance of Rehabilitation Staff. At the request of the business consultant or other BEP staff member, rehabilitation staff will provide necessary assistance to the program when the best interest of the licensed manager or the SLA needs such assistance.

H. SLA Provision of Training. The SLA shall ensure that effective programs of vocational and other training services, including personal and vocational adjustment, books, tools, and other training materials, shall be provided to trainees as vocational rehabilitation services. Such programs shall include on-the-job training in all aspects of business enterprise operations for licensed managers, and upward mobility training including further education and additional training or retraining for improved work opportunities for all licensed managers. (34 CFR 395.11)

1. Training for New or Potential Licensed Managers. Training for potential or new licensed managers will cover the basic and common knowledge, skills, and abilities necessary to operate a business enterprise. This training will use instruction and on-the-job training to cover such topics as the history and statutory foundations of the BEP, acceptable business practices, the rules and regulations of the BEP, employee supervision, food preparation and handling, operation and maintenance of equipment and furnishings, merchandising, and quality customer service.

2. Training for Present Licensed Managers. Post-employment training will be provided by the SLA to encourage greater professional competence and to promote the upward mobility of the licensed manager. The training will, through instruction and on-the-job training, enhance the knowledge, skills, and abilities needed to operate and improve the operation of present enterprises, and to prepare for the operation of a more comprehensive enterprise, supervisory practices relevant to larger operations, changing policies and laws, and state of the art merchandising techniques and equipment. Such a training program will also incorporate the use of peer trainer workshops in best practices.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:664.4 and R.S. 36:477.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Rehabilitation Services, LR 25:531 (March 1999), amended LR 27:1561 (September 2001).

§519. State Licensing Agency Responsibilities for Business Enterprise Operations

A. Business Enterprise Equipment and Fixtures. The SLA will provide each business enterprise with fixtures and equipment in such quantity and quality so as to give reasonable assurance of successful operation by the licensed manager.

B. Additions, Deletions, or Modifications to Equipment. The licensed manager will make no additions, deletions or modifications to the business enterprise and its operation, in the form of equipment, fixtures or facilities, without first obtaining written authorization from the SLA.

C. Maintenance and Replacement of Business Enterprise Equipment. The SLA shall maintain, or cause to be maintained, all business enterprise equipment in good repair and in an attractive condition and shall replace or cause to be replaced worn-out and obsolete equipment as required to ensure the continued successful operation of the business enterprise. (34 CFR 395.10)

D. Initial Inventory and Supplies. The SLA shall provide for initial inventory of merchandise for resale and for operating a business enterprise by a licensed manager.

E. Assignment, Transfer of Licensed Managers. The SLA will carry out assignment and transfer of licensed managers through business enterprise vacancy announcements, eligibility verification, and establishing and convening a screening committee.

1. Business Enterprise Vacancy Announcement

a. The SLA will develop minimum qualifications specific to the characteristics of the vacant enterprise. These minimum qualification will establish the level of accomplishment expected of the applicant for the vacant business enterprise in each of the areas to be considered by the screening committee as described in §519.E.2. Extra consideration will be given to displaced licensed managers:

i. location, type of enterprise, and general description of operations;

ii. minimum qualifications;

iii. for a new enterprise, estimates of monthly net sales based upon potential patronage, with disclaimer this estimate is not a guarantee of sales; and

iv. application due date.

2. Eligibility Verification and Referral to Screening Committee. The SLA shall provide a list of eligibility criteria and refer eligible applicants to the screening committee. selection shall be based upon:

a. managerial and other skills and abilities demonstrated by the licensed managers under consideration as they fit the available business enterprise, including:

i. handling labor needs;

ii. complexity of financial skills;

iii. food preparation and production; and

iv. customer relations;

b. previous records of the licensed manager under consideration, including:

i. consideration of the timeliness and accuracy of record keeping;

ii. customer satisfaction;

iii. improvements in profits;

iv. safety and sanitation inspections;

v. fees, taxes, and bill payment history;

vi. initiative shown in upgrading skills;

vii. regularity of work attendance;

viii. compliance with applicable rules and laws; and

ix. past evaluations by the SLA;

c. seniority of eligible licensed manager.

3. Screening Committee and Recommendation for Assignment. The screening committee shall be established and convened by the SLA. The screening committee will consider applicants for assignment and transfer. The committee shall make recommendation(s) to the SLA or designee. At least one member of the screening committee shall be a representative of the elected committee of managers.

F. Vending Machine Income. Vending machine income will be managed by the following.

1. Vending machine income from vending machines on Federal property which has been disbursed to the SLA by a property manager under the vending machine income sharing provisions of the federal regulations shall accrue to each licensed manager operating a business enterprise on federal property in an amount not to exceed the average net income of the total number of licensed managers, as determined each fiscal year on the basis of each prior year's operations, except that vending machine income shall not accrue to any licensed manager in any amount exceeding the average net income of the total number of licensed managers in the United States. [34 CFR 395.8(a)]

2. No licensed manager shall receive less vending machine income than he/she was receiving during the calendar year prior to January 1, 1974, as a direct result of any limitation imposed on such income under this ceiling. (34 CFR 395.32)

3. One-hundred percent of all vending machine income from vending machines on Federal property which are in direct competition with a business enterprise operated by a licensed manager will accrue to the SLA which shall disburse such income to such licensed manager operating such business enterprise on such property provided that the total amount of such income accruing to such licensed manager does not exceed the maximum amount determined

under 34 CFR 395.8(a). In the event that there is income in excess of the maximum amount which may be disbursed to the licensed manager under 34 CFR 395.8(a), such additional income shall accrue to the SLA for purposes determined in accordance with 34 CFR 395.8(c). [34 CFR 395.32(b)]

4. The SLA will disburse vending machine income to qualifying licensed managers on at least a quarterly basis. [34 CFR 395.8(b)]

5. Vending machine income retained by the SLA will be sued in accordance with applicable federal regulations. [34 CFR 395.8(c)]

6. Unassigned income from non-federal property is used to develop and enhance the BEP.

G. Due Process. The SLA provides procedures for fair hearings of licensed managers' grievances. These procedures provide each licensed manager the opportunity to seek remediation of dissatisfaction with any SLA action arising from the operation of the BEP and are set forth in the following.

1. Informal Administrative Review. It is the policy of the SLA to resolve complaints in an expeditious and facilitative manner. These resolutions shall be accomplished through the informal administrative review process whenever possible. A licensed manager has the right to request a full evidentiary hearing at any time within established due process time lines.

a. Information administrative reviews are conducted by the SLA staff person closest to the problem who was not involved in the action resulting in the complaint, and who can resolve the complaint in the most expeditious manner.

b. The information administrative review is to be completed within 45 calendar days of receipt of the written complaint to the appropriate SLA staff person.

c. The results of the informal administrative review are to be reported in writing to the BEP administrator, with a copy going to the licensed manager affected.

2. Full Evidentiary Hearings. Licensed managers have the right to a full evidentiary hearing to resolve dissatisfaction with any SLA action arising from the operation or administration of the Business Enterprises Program. Evidentiary hearings shall be conducted as set forth in the following.

a. If the complaint cannot be resolved with an informal administrative review, or in the absence of an information administrative review, the licensed manager may request a full evidentiary hearing. The request for a full evidentiary hearing must be made to the BEP Administrator in writing within 30 calendar days from the date the licensed manager receives the written notification of adverse action, or the written report of the information administrative review. The request for a full evidentiary hearing is to be sent by certified mail.

b. The licensed manager may be represented in the evidentiary hearing by legal counsel, or other representation of the licensed manager's choice, and at the licensed manager's expense.

c. Reader services or other reasonable accommodations will be arranged by the SLA upon the request of the licensed manager.

d. The hearing will be scheduled by the SLA for a time and place convenient and accessible to the licensed manager and the SLA staff involved in the hearing. The licensed manager will be notified of the place and time of the hearing and the right to be represented by legal or other counsel in writing.

e. The hearing will be conducted by an impartial and qualified official with no involvement or vested interest in the SLA, action at issue, or with the operation of the affected business enterprise. The presiding officer will conduct the hearing in accordance with state and/or federal laws and rules governing the conduct of such proceedings. In any case, the hearing will be conducted in a manner that avoids delay, maintains order, and provides for a full recording and reporting of the proceedings so that a full and true disclosure of the facts and issues occurs.

f. The hearing officer's determination will be based upon the facts as presented by both parties and upon applicable law, and the existing rules of the SLA. The hearing officer does not have the power to rule upon the legality or construction of the rules themselves. The officer's decision will determine the relevant issues and facts to be ruled upon.

g. The hearing officer shall make a written report of the evidence presented, the laws and rules used in determining a resolution, and the resolution itself. This report shall be issued to the BEP Administrator and the licensed manager, or his/her authorized representative within 15 calendar days of the conclusion of the full evidentiary hearing.

h. If the licensed manager is dissatisfied with the decision, she or he may request that the secretary (USDE) convene an arbitration panel. The request for an arbitration panel must be made in writing within 30 calendar days from the date the licensed manager receives written notification of the full evidentiary hearing decision.

3. Arbitration of Complaints after the Evidentiary Hearing. The licensed manager has the right to file a request for arbitration with the secretary (USDE) if dissatisfied with the outcome of the evidentiary hearing. By filing a complaint with the secretary, the operator consents to the release of information necessary for the conduct of an ad hoc arbitration panel.

a. The complaint must be filed in writing and must contain:

i. statement of the grievance;

ii. the date and place of the full evidentiary hearing;

iii. a copy of the decision and what actions have been taken because of the decision;

iv. the part of the decision which is causing the dissatisfaction and reason for the dissatisfaction; and

v. a statement as to what is required to remedy the situation.

b. The secretary (USDE) will convene an arbitration panel after receiving a compliant which meets the requirements in §519.G.3.a.i-v. The decision of the panel will be final, except as provided for in 20 U.S.C. 107d-2. The secretary will pay the reasonable costs for the arbitration. An abstract of the arbitration decision will be published in the *Federal Register*. The panel will be convened by the secretary in accordance with the following:

i. the SLA shall designate one member of the panel;

ii. the licensed manager shall designate one member of the panel;

iii. the designees of the SLA and the licensed manager shall together designate the third panel member who shall not be an employee of the SLA or its parent agency. This member shall be the chairperson of the panel; and

iv. if the SLA or licensed manager does not select a member for the panel, the secretary will designate such a member on the applicable party's behalf.

4. Arbitration of SLA Complaints against Federal Agencies. The SLA is to resolve problems related to the operation of a business enterprise with the full participation of the licensed manager and the appropriate property manager. The SLA may file a complaint with the secretary (USDE) if it determines that an agency controlling Federal property is not complying with the provisions of the Randolph-Sheppard Act of U.S. Department of Education regulations. After the complaint is received, the secretary will convene an arbitration panel. If the panel finds that the Federal agency is in violation of the Act or USDE regulations, that Federal agency will be notified that it is expected to correct the violation according to 20 U.S.C. 107d-2. The secretary pays the reasonable costs of this arbitration. The decision resulting from the arbitration will be published in the *Federal Register*. The arbitration panel will be convened by the secretary in accordance with the following:

a. the SLA will designate one member of the panel;

b. the agency controlling the federal property over which the dispute arose will designate one member of the panel;

c. the designees of the SLA and the agency controlling the property will designate a third member who is not an employee of the agency. This member will chair the panel; and

d. if either the SLA or the head of the federal department, agency, or instrumentality fails to designate a member of an arbitration panel, the secretary shall designate such member on behalf of such party.

H. Enforcement Randolph Sheppard Priority. The SLA is responsible for notifying entities of the Randolph Sheppard priority to operate vending services as specified in R.S. 23:3023. If there is a dispute that cannot be resolved by the parties, the SLA will file for a full evidentiary hearing as follows.

1. Full Evidentiary Hearings. A full evidentiary hearing shall be conducted by an impartial and qualified official designated by Louisiana Rehabilitation Services with no involvement or vested interest in the dispute at issue.

a. The hearing offices shall make a written report of the evidence presented, the laws and rules used in determining a resolution, and the resolution itself.

b. Report shall be issued to all parties within 30 calendar days of the conclusion of the full evidentiary hearing.

c. The decision shall be final and conclusive unless fraudulent, or unless either party institutes a suit pursuant to R.S. 23:2023(G).

I. Implementation of R.S. 23:3023(D): Employment and Training Targets for Persons who are Blind or Otherwise Disabled

1. Requirement applies to:

a. each blind vendor who employs greater than 10 employees and operates a BEP facility under a permit ratified or issued after the promulgation of this Subsection;

b. businesses that provide services to BEP facilities that employ greater than 10 employees and operate under a contract ratified or issued after the promulgation of this Subsection.

2. Employer Guidelines. Specific targets will be determined by the employer and may include:

a. establishing numerical hiring goals to include individuals with disabilities and incorporate these goals in their hiring practices;

b. engaging in outreach activities and targeted recruitment of individuals with disabilities;

c. utilizing services provided by Louisiana Rehabilitation Services to access a qualified pool of candidates for on the job training and temporary and permanent employment opportunities.

3. LRS' role will be to govern and implement initiatives to provide education, outreach and information regarding effective business practices that foster employment of blind or otherwise disabled individuals. The expected outcome of these strategies, is to increase job opportunities for individuals who are blind or otherwise disabilities.

J. Louisiana Rehabilitation Services shall submit a quarterly performance report of the agency's programs for

blind persons to the legislature by the end of the month following the end of the quarter. An annual report shall be submitted no later than 60 days prior to the convening of the Regular Legislative Session.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:3022.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Rehabilitation Services, LR 25:532 (March 1999), amended by the Workforce Commission, Rehabilitation Services, LR 41:1312 (July 2015), amended by the Workforce Commission, Rehabilitation Services, LR 41:2178 (October 2015).

§521. Licensed Managers

A. Licensing Requirements for Operating a Business Enterprise

1. Definition of License. A license is a written instrument issued by the SLA to a licensed manager, authorizing such person to operate a business enterprise on federal or other property. (34 CFR 395.1)

2. Issuance and Conditions of License. A license shall be issued by the SLA in accordance with federal regulations making the individual eligible to operate a business enterprise. The license shall be prominently displayed in the licensed manager's business enterprise. The license remains effective for an indefinite length of time, unless terminated, suspended, or revoked by the SLA in accordance with state and federal regulations. A license issued to a qualified individual is non-transferable. (34 CFR 395.7) Requirements for the issuance of a BEP license are that the individual:

a. must be blind as verified by documentation (34 CRF 395.7);

b. must be a U.S. citizen residing in the state in which he/she desires to be trained and licensed. Birth certificate or other applicable documentation must be submitted with application (34 CFR 395.7);

c. be at least 18 years of age or older;

d. have completed all services on the Individualized Written Rehabilitation Program which are prerequisite for the training program;

e. have documentation of independent living skills;

f. be a high school graduate or have a GED;

g. have basic math skills; and

h. have successfully completed the BEP Training Program.

3. Termination of Agreement or Removal from an Enterprise. The SLA may terminate a manager's agreement and/or immediately remove the licensed manager from operation of a business enterprise for cause shown. Termination of a manager's agreement or removal from operation of a business enterprise does not necessarily mean that the manager's license will be suspended or terminated. The licensed manager has the right to a full evidentiary hearing when dissatisfied with any state licensing agency action in accordance with BEP, state, and federal regulations.

4. Termination of License. A license automatically expires when the licensed manager is no longer a U.S. citizen, no longer meets the definition of legal blindness, surrenders his/her license, resigns, retires, or dies. A license may be terminated or suspended by the SLA, after affording the licensed manager an opportunity for a full evidentiary hearing, in accordance with BEP, state, and federal regulations. [34 CFR 395.7(b)]

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:664.4 and R.S. 36:477.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Rehabilitation Services, LR 25:534 (March 1999).

§523. Operation Standards for Licensed Managers

A. The licensed manager is expected to operate in accordance with the established rules and regulations of the BEP, within the terms of the licensed manager's agreement with the SLA and the grantor's agreement, contract, or permit. The licensed manager may not act as an agent of the SLA. Specifically, the licensed manager will:

1. work cooperatively with authorized representatives of the SLA in connection with their official responsibilities;

2. operate the business enterprise in accordance with all applicable health laws and regulations, safety regulations and other federal, state, county, and municipality laws and regulations applicable to the business enterprise;

3. dress and maintain a level of personal hygiene which will convey a positive public image;

4. supervise employees in a manner that promotes quality customer service;

5. operate the business enterprise on a cash basis unless otherwise authorized by the SLA;

6. arrange for continued operation of the enterprise in the case of absences;

7. maintain daily records of gross receipts, merchandise purchased, cash on hand, and personal withdrawals from the business enterprise, and other records as established by the BEP;

8. maintain and display current licenses and permits, including BEP license, in the business enterprise;

9. complete and submit all required federal and state reports and payments for each business enterprise;

10. comply with all regulations and laws governing the possession and/or use of firearms, weapons, alcohol and other drugs; and

11. maintain appropriate professional relationships with suppliers, customers, and building officials as in §523.B-D.

B. Relationships with Suppliers/Purveyors. The licensed manager is free to choose the suppliers from whom he/she is to make purchases, provided, however, that such suppliers are established and reputable.

C. Relationships with Customers. To serve the best interest of the public, the licensed manager and his/her employees must:

1. provide prompt, cheerful and courteous service to all customers and accommodate, within reasonable limits, such other persons who may come to the business enterprise requesting change, information, or other services; and

2. operate on a cash basis.

D. Relationships with Building Officials. Paragraphs 523.D.1-2 provide guidance in maintaining a productive relationship with building officials.

1. The licensed manager must comply with all reasonable requests concerning the operation of a business enterprise that may be made by officials of the building in which the enterprise is located, provided that such requests do not conflict with the agreement and the rules and regulations issued by the SLA as contained herein.

2. If differences should arise between the licensed manager and building management, the licensed manager shall bring the matter to the immediate attention of the business consultant for appropriate action.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:664.4 and R.S. 36:477.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Rehabilitation Services, LR 25:535 (March 1999).

§525. Grounds for Suspension or Termination of a License

A. A BEP license may be suspended or terminated for:

1. failure to open the assigned business enterprise as stated in the permit/contract with the grantor agency, without prior proper approval from the SLA (abandonment of business enterprise);

2. defrauding any agency of the government (including the SLA) or any supplier or failure to pay monies due including taxes, fees, or assessments to any governmental entity or supplier;

3. failure to file required financial and other records with the SLA or to preserve them for a specified time and failure to comply/cooperate with audits conducted by the SLA or other state or federal agencies;

4. failure to maintain the required insurance coverage;

5. the business enterprise is not being operated in accordance with the rules and regulations, terms and conditions of the permit with the grantor agency, or the terms and conditions of the business enterprise manager's agreement;

6. intentional abuse, neglect, unauthorized use or removal of the business enterprise equipment; or failure to properly maintain the equipment in a clean and operating manner within the scope of the licensed manager's level of maintenance authorization;

7. substance abuse (alcoholic beverages, illegal drugs, etc.) while operating the business enterprise; or other substance abuse that interferes with the operation of a business enterprise;

8. operation of a business enterprise in such a way that the SLA's investment is obviously endangered;

9. an attempt by a licensed manager to derive personal benefit from privileged information acquired through participation in the Business Enterprises Program;

10. failure to comply with all federal and state laws prohibiting discrimination and failure to assure services without distinction on the basis of race, gender, color, national origin, religion, age, political affiliation, or disability;

11. determination by the SLA that the licensed manager no longer has the necessary skills and abilities for effectively managing a business enterprise;

12. use of the business enterprise to conduct unlawful activities;

13. failure to personally operate and manage the business enterprise in accordance with the manager's agreement; or

14. does not actively operate a business enterprise in the Business Enterprises Program for five years.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:664.4 and R.S. 36:477.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Rehabilitation Services, LR 25:535 (March 1999).

§527. The Elected Committee of Managers

A. Authority for Establishing an Elected Committee of Licensed Managers is found in Section 107-B1 of Chapter 6A of Title 20 U.S., commonly referred to as the Randolph-Sheppard Act.

B. Paragraphs 527.B.1-2 provide guidance in approaching the degree of participation by the ECM.

1. *Active participation* means an ongoing process of good faith negotiations between the ECM and SLA to achieve joint planning of policies, procedures, standards, rules and regulations affecting the overall operation of the Business Enterprise Program prior to implementation by the SLA.

2. The SLA shall have final authority and responsibility in all decisions relative to the administration and operation of all aspects of the Business Enterprises Program.

C. Functions of the Elected Committee of Licensed Managers include:

1. actively participate with the SLA in the major administrative, policy, and program development decisions affecting the overall administration of the Business Enterprises Program;

2. to receive and transmit to the SLA grievances at the request of licensed managers and to serve as advocates for such managers in connection with such grievances;

3. to actively participate with the SLA in the development and administration of a state system for the transfer and promotion of licensed managers;

4. to participate with the SLA in developing training and retraining programs for licensed managers;

5. to sponsor, with the assistance of the SLA, meetings and instructional conferences for licensed managers;

6. to participate in setting out the method of determining the charge for each of the purposes listed below:

a. maintenance and replacement of equipment;

b. the purchase of new equipment;

c. management services;

d. assuring a fair minimum of return to licensed managers; or

e. the establishment and maintenance of retirement or pension funds, health insurance contributions, and provisions for paid sick leave and vacation time, it is so determined by a majority vote of licensed managers, after the SLA provides to each licensed manager information on all matters relevant to such proposed purposes. [34 CFR 395.9(b) and (c)]

D. The ECM will be composed of licensed managers in the program based on such factors as geography and business enterprise type with a goal of providing for proportional representation of licensed managers on federal property and other property. There will be an executive committee with their duties and terms of office specified in the by-laws of the ECM.

E. The SLA shall provide for the biennial election of a State committee of licensed managers which shall be fully representative of all licensed managers in the state program. (34 CFR 395.14)

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:3022.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Rehabilitation Services, LR 25:536 (March 1999), amended by the Workforce Commission, Rehabilitation Services, LR 41:2179 (October 2015).

Chapter 9. Council on the Purchase of Products and Services of Severely Disabled Persons

§901. General Rules

A. The purpose of this program is to further the state of Louisiana's policy of encouraging and assisting individuals with disabilities to achieve maximum personal independence by engaging in useful and productive employment activities and, in addition, to provide state agencies, departments, and institutions and political subdivisions of the state with a method for achieving conformity with requirements of nondiscrimination and affirmative action in employment matters related to individuals with disabilities. This program will provide employment opportunities for individuals with disabilities, thereby reducing their need for financial and other forms of assistance from government.

B. The Program for the Purchase of Goods and Services Provided by Individuals with Disabilities created pursuant to R.S. 39:1604.4, which provides that every agency gives a preference in its purchasing practices to goods manufactured and services performed by individuals with disabilities, shall be called the State Use Council for the Purchase of Goods and Services Provided by Individuals with Disabilities hereinafter called Council.

C. The Louisiana Department of Health (LDH) shall establish a council and the membership of the council shall be determined by the secretary of LDH.

D. The Council shall be responsible for the implementation, policies, supervision, and monitoring of the program including having the authority to designate and contract with a central nonprofit agency to assist supported employment providers.

E. When contracting with a central nonprofit agency, the council shall solicit and evaluate competitive sealed proposals pursuant to R.S. 39:1595, at least every five (5) years.

F. All suitable goods and services approved by the council in accordance with applicable specifications by or for any state agency shall be procured from such nonprofit organization, program or entity as defined by R.S. 12:201 et seq., where such goods and services are available within the period specified at the fair market price unless otherwise excluded.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:664.6 and R.S. 36:477.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Rehabilitation Services, LR 16:976 (November 1990), amended by the Department of Health, Office for Citizens with Developmental Disabilities, LR 47:372 (March 2021).

§903. Definitions

Central Nonprofit Agency (CNA)—an entity designed as a central nonprofit agency pursuant to RS 39:1604.4.

Community Rehabilitation Program (CRP)—a government or nonprofit private program operated under criteria established by the council and under which individuals with disabilities produce goods or perform services for compensation.

Council—when used in these rules shall refer to the Louisiana Department of Health (LDH) State Use Council for the Purchase of Goods and Services Provided by Individuals with Disabilities.

Direct Labor—all work required for preparation, processing and packaging of a good, or work directly

relating to the performance of a service; except supervision, instruction, administration, inspection or shipping goods.

Disability—a mental or physical impairment, including blindness, that impedes a person who is seeking, entering, or maintaining gainful employment.

Goods Manufactured and Services Performed by Individuals with Disabilities—goods and services for which not less than 40 percent of the man-hours of direct labor required for manufacture or performance is provided by individuals with disabilities.

Individuals with Disabilities—individuals with a physical, behavioral, developmental, intellectual, sensory, mental, or addictive disorder which constitutes a substantial obstacle to their employment and is of such a nature as to prevent an individual from engaging in normal competitive employment.

Supported Employment Provider—a nonprofit organization, program or entity that:

1. as defined by R.S. 12:201 et seq. operates in the interests of individuals with disabilities and provides gainful, competitive, integrated employment for individuals with disabilities, and the income of which does not inure in whole or part to the benefit of any shareholder or other private individual, in compliance with a central nonprofit agency for individuals with disabilities and

2. complies with any applicable occupational health and safety standards provided by the statutes or regulations of this state or of the United States.

3. in Fiscal Years 2019-2020 and 2020-2021, supported employment provider shall also include any sheltered workshop transitioning to a supported employment provider as defined above.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:664.6 and R.S. 36:477.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Rehabilitation Services, LR 16:976 (November 1990), amended by the Department of Health, Office for Citizens with Developmental Disabilities, LR 47:372 (March 2021).

§905. Organization of the Council

A. The council will be composed of no more than nine members to be known as the Council on the Purchase of Goods and Services of Individuals with Disabilities, including three state agency members and up to six appointed members. The state agency members shall be the director of State Purchasing of the Division of Administration or their designee; and the assistant secretary of the Office for Citizens with Developmental Disabilities, Louisiana Department of Health (LDH) or their designee; and the director of Louisiana Rehabilitation Services or their designee. The six appointed members shall be recommended by the Council on the Purchase of Goods and Services of Individuals with Disabilities and approved by the secretary of the LDH. A chairman shall be recommended by the council to the secretary of the LDH for appointment.

B. Reimbursement for necessary expenses actually incurred in the performance of services in connection with the work of the council will be made as authorized by the secretary of LDH.

C. The act of a majority of the members present at a meeting at which a quorum is present shall be the act of the council.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:664.6 and R.S. 36:477.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Rehabilitation Services, LR 16:976 (November 1990), amended by the Department of Health, Office for Citizens with Developmental Disabilities, LR 47:372 (March 2021).

§907. Duties and Responsibilities of the Council

A. The duties and responsibilities of the council are:

1. to coordinate and facilitate the carrying of R.S. 39:1604.4 and R.S. 38:2261;

2. to certify eligibility of programs for participation;

3. to suspend and reinstate a supported employment provider;

4. to solicit and evaluate competitive sealed proposals pursuant to R.S. 39:1595 at least every five years to designate and contract with a central nonprofit agency to assist the Council in performing its functions;

5. to act on recommendations of the central nonprofit agency.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:664.6 and R.S. 36:477.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Rehabilitation Services, LR 16:976 (November 1990), amended by the Department of Health, Office for Citizens with Developmental Disabilities, LR 47:373 (March 2021).

§909. Certification of Eligibility of Participating Workshops

A. The council shall certify each supported employment provider making application for participating in the Program for the Purchase of Goods and Services Provided by Individuals with Disabilities.

1. The applicant meets the necessary definition of a supported employment provider as defined in R.S. 39:1604.4.

2. The applicant meets the necessary definition of a central nonprofit agency as outlined in R.S. 39:1604.4, only if central nonprofit agency status is a requirement that the program must have obtained to function legally as a supported employment provider under federal and/or state statutory requirements.

3. The applicant conforms to the requirement for goods manufactured and services performed by individuals with disabilities as defined in R.S. 39:1604.4.

4. The applicant has demonstrated to the Council's satisfaction that it is capable of providing goods and services for sale to the state that conform to the criteria for same, as established by the rules pursuant to R.S. 39:1604.4.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:664.6 and R.S. 36:477.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Rehabilitation Services, LR 16:976 (November 1990), amended by the Department of Health, Office for Citizens with Developmental Disabilities, LR 47:373 (March 2021).

§911. Central Nonprofit Agency

A. The council shall have the authority to designate and contract with a central nonprofit agency to assist supported employment providers in submitting applications for the selection of suitable goods and services, to facilitate the allocation of orders among qualified supported employment providers, in controlling quality control, and in assisting the council in carrying out its responsibilities.

B. The council shall solicit and evaluate competitive sealed proposals pursuant to R.S. 39:1595, at least every five years to designate and contract with a central nonprofit agency.

C. The central nonprofit agency may also assist supported employment providers in training, contract negotiations and procurement, costing, cash advancements against billing, no interest loans, credit checks and collections, public relations, consultations, goods development, market research, networking, industry referrals, production, management, contract administration, liaison with government, and other duties as specified by the council. Payment, if any, for such assistance shall be by agreement with the individual supported employment provider.

D. The Council shall establish rates for marketing services to be charged to the supported employment provider by the central nonprofit agency.

E. Purchase orders may be issued by the appropriate purchasing agency for suitable goods and services directly to a supported employment provider with copies to a central nonprofit agency. Provisions may also be made to issue purchase orders directly to the central nonprofit agency which will in turn make payment to the supported employment provider.

F. If such assistance is authorized in the designation, the Council may instruct the central nonprofit agency to assist it in carrying out certain specified Council responsibilities.

G. Central nonprofit agency will submit annually a detailed written report of its program and budget to the council. This report shall include:

1. the number of disabled persons according to their type of disability who are employed by supported employment providers participating the program for the purchase of goods and services;

2. the amount of annual wages paid to persons participating in the program;

3. a summary of the sale of goods offered by the supported employment providers;

4. a list of goods and services offered by the supported employment providers;

5. the geographic distribution of the supported employment providers;

6. other information specified by the council for its determination of rates for marketing services to be charged the supported employment providers by the central nonprofit agency;

7. information regarding the financial operations and conditions of the central nonprofit;

8. a report of the extent to which activities were performed in accordance with 911.C above;

9. the number of persons with disabilities who transitioned to individual or supported employment opportunities.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:664.6 and R.S. 36:477.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Rehabilitation Services, LR 16:976 (November 1990), amended by the Louisiana Department of Health, Office for Citizens with Developmental Disabilities, LR 47:373 (March 2021).

§913. Suspension and Reinstatement of a Workshop

A. The council, after notice and a hearing may suspend a supported employment provider from its right to receive purchase orders from this program for suitable goods and services under any or all of the following circumstances:

1. failure of delivered goods and services to meet or exceed specification;

2. failure to deliver ordered goods and services as required in the specifications.

B. The council may reinstate a supported employment provider after a suspension only if the council makes an affirmative finding on each of the following:

1. that the supported employment provider has reimbursed the state for damages suffered by reason of any of the failures giving rise to suspension;

2. that the supported employment provider has made the necessary corrections to avoid these failures in the future.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:664.6 and R.S. 36:477.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Rehabilitation Services, LR 16:976 (November 1990), amended by the Department of Health, Office for Citizens with Developmental Disabilities, LR 47:374 (March 2021).

§915. Value Added

A. A supported employment provider may not act merely as a receiving and shipping facility, except under circumstances as approved by the council..

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:664.6 and R.S. 36:477.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Rehabilitation Services, LR 16:976 (November 1990), amended by the Department of Health, Office for Citizens with Developmental Disabilities, LR 47:374 (March 2021

§917. Inspections

A. The appropriate purchasing agency, at its option, may monitor supported employment provider manufacturing activities for compliance with specifications under existing contracts.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:664.6 and R.S. 36:477.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Rehabilitation Services, LR 16:976 (November 1990), amended by the Department of Health, Office for Citizens with Developmental Disabilities, LR 47:374 (March 2021).

§919. Records

A. The records of the council and of any nonprofit agency participating in this program which pertain to state purchases of the goods and services of individuals with disabilities, shall be made available upon request to the inspection of representatives of the Legislative Auditor, Office of the Inspector General, the Division of Administration, Office of Planning and Budget , or the Legislative Fiscal Office on the assurance that the information will be safeguarded, used only for the purpose for which provided, and not released to unauthorized persons.

B. A request for information for other records of the council which identifies individuals with disabilities as a state agency client or former client will be forwarded to LDH for review.

C. LDH is the depository for all records concerning the Council's operations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:664.6 and R.S. 36:477.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Rehabilitation Services, LR 16:976 (November 1990), amended by the Louisiana Department of Health, Office for Citizens with Developmental Disabilities, LR 47:374 (March 2021).

§921. Exceptions

A. Exceptions from the operation of the mandatory provisions of these rules may be made in any case where under the rules of the state purchasing agency, the goods or service so produced or provided does not meet the reasonable requirements of the office, department, institution, or agency.

B. No office, department, institution, or agency may evade the intent of these rules by slight variations from standards adopted by the appropriate purchasing agency, when the goods or services produced or provided by individuals with disabilities, in accordance with established standards, are reasonably adapted to the actual needs of the office, department, institution, or agency.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:664.6 and R.S. 36:477.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Rehabilitation Services, LR 16:976 (November 1990), amended by the Louisiana Department of Health, Office for Citizens with Developmental Disabilities, LR 47:374 (March 2021).

Chapter 13. State Sign Language Interpreter Certification Standards

§1301. Certification Standards

A. Certification Statement. All individuals who use the title Sign Language Interpreter must be certified by and registered with the Louisiana Commission for the Deaf.

1. Recognition of situational specialties will require action of the appropriate subcommittees of the Interpreter Certification Board.

a. Qualifications for certification:

i. be at least 18 years of age; and

ii. possess a high school diploma/GED; and

iii. submit completed application forms and required documentation; and

iv. pass appropriate examination(s); and

v. possess no felony or misdemeanor convictions for offenses which directly relate to the duties and responsibilities of an interpreter/transliterator; and

vi. abide by state laws, rules and regulations; and

vii. abide by the Registry of Interpreters for the Deaf, Inc. (RID) Code of Ethics.

b. In addition, applicants shall agree to:

i. sign a release of information form allowing LCD to gain examination results from examining agency(ies); and

ii. pay membership and related application fees to contracted examining agency(ies).

c. Application. An individual interested in certification must contact the Louisiana Commission for the Deaf (LCD).

B. Examinations. The State Interpreter/Transliterator Certification Program includes the following.

1. Screening. To begin the certification process, the candidate must successfully pass a screening instrument which will be determined by the ICB as approved by the LCD.

2. Written/Verbal/Performance Components. Upon successful completion of screening, the candidate will be eligible for the written examination(s), which will assess knowledge of the general field of deafness including deaf culture; the profession of interpreting/transliterating for persons who are deaf, deaf-blind or hard of hearing and application of the RID Code of Ethics.

a. Upon successful completion of the written examination(s), the candidate will be eligible for the verbal and/or performance examination(s).

b. The verbal examination(s) may include but not be limited to assessing knowledge of the general field of deafness including deaf culture, the profession of interpreting/transliterating and application of the RID Code of Ethics.

c. The performance examination will assess the candidate's ability to interpret and/or transliterate in the appropriate mode(s).

3. Examination Instrument. The Interpreter Certification Board will determine the examination(s) to be administered as approved by the Louisiana Commission for the Deaf.

4. Examination Dates. Administration of examination(s) will be scheduled by the Interpreter Certification Board.

5. Notification of Examination(s) Results. Individual candidates will be notified of results. Results of any part of the examination(s) will be maintained in confidential files, however, successful completion of the Interpreting/ Transliterating Certification Program will be a matter of public record.

6. Re-Application. Persons who do not successfully pass any section(s) of the examination may apply for re-examination of said section(s) after a waiting period as outlined in the State Interpreter/Transliterator Certification Program Procedures Manual.

7. No Shows. Failure to appear at an examination site at the appropriate time, for other than just cause as determined by ICB, will result in being placed at the bottom of the waiting list for the next available date.

C. Certificates

1. Certificate Criteria. The candidate:

a. must successfully complete the written examination(s); and

b. must successfully complete the verbal and/or performance examination(s);

c. must successfully complete a performance examination;

d. will be awarded various levels as outlined in the procedure manual of the Interpreter Certification Board.

2. Certificate Duration/Maintenance. Certificates shall be continuous as long as the individual interpreter meets certificate maintenance requirements as outlined in the State Interpreter/Transliterator Certification Program Procedures Manual. Certificate maintenance requirements shall include but not be limited to professional growth and development, and field work.

a. Certificates shall be terminated when maintenance requirements are not met, but may be restored as outlined in the State Interpreter/Transliterator Certification Program Procedures Manual.

3. Recognition. Recognition of interpreting/ transliterating certificates shall be approved as outlined in the State Interpreter/Transliterator Certification Program Procedures Manual.

4. Appeals. Individuals who disagree with the examination procedure and/or decisions of the Interpreter Certification Board have the right of appeal as outlined in the State Interpreter/Transliterator Certification Program Procedures Manual.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:2351-2354 and 46:2361-2374.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Rehabilitation Services, Commission for the Deaf, LR 17:389 (April 1991), amended LR 18:968 (September 1992), LR 19:905 (July 1993), LR 21:838 (August 1995), LR 26:1489 (July 2000).

Chapter 15. Independent Living Policy Manual

§1501. Agency Profile

A. Mission. To assist persons with disabilities in their desire to achieve independence in their home or community and/or to assist a responsible individual to obtain or maintain employment by providing independent living services and by working cooperatively with other community services.

B. Program Administration. Louisiana Rehabilitation Services, hereafter referred to as LRS, will secure appropriate resources and support in administering the various programs under the responsibility of the agency. These programs include, but are not limited to:

1. Title VII, Chapter 1, Part B Independent Living Program;

2. Title VII, Chapter 2, IL Services for Older Individuals Who are Blind.

C. The Manual's Function. This manual sets forth the policies of LRS in carrying out the agency's mission, specifically as this mission relates to the Independent Living Program.

D. Exceptions. The director or designee shall have the sole responsibility for any exceptions to this policy manual.

E. Nondiscrimination. All programs administered by and all services provided by LRS shall be rendered on a nondiscrimination basis without regard to handicap, race, creed, color, sex, religion, age, national origin, duration of residence in Louisiana, or status with regard to public

assistance in compliance with all appropriate state and federal laws and regulations to include Title VI of the Civil Rights Act of 1964.

F. Compliance with State Laws, Federal Laws and Regulations, and Departmental Policies and Procedures. Staff shall comply with all state and federal laws, agency and civil service rules and regulations, Title VII of the Rehabilitation Act of 1973, as amended, and the Americans with Disabilities Act (ADA) of 1990 (Public Law 101-336).

G. Cost-Effective Service Provision. Services shall be provided in a cost-effective manner.

H. Records. A record must be maintained for each applicant/client and shall contain documentation to support a counselor's decision regarding eligibility, and subsequent decisions to provide, deny, or amend services.

I. Data Collection. Staff shall ensure the provision of client and financial data necessary for the operation of the agency's information and financial system as well as the blind registry.

J. Expeditious Service Delivery. All referrals, applications and provision of services will be handled expeditiously and equitably.

K. Client Assistance Program. All programs, including Centers For Independent Living, Community Rehabilitation Programs, and projects that provide services to individuals with disabilities under the Rehabilitation Act Amendments of 1998 shall advise such individuals, or the parents, family members, guardians, advocates, or authorized representatives of the individuals, of the availability and purposes of the Client Assistance Program, including information on means of seeking assistance under such program.

L. Equal Employment Opportunities

1. LRS will comply with Title VII of the Civil Rights Act of 1964 as amended, and Title V of the Rehabilitation Act of 1973 as amended.

2. In addition, all community rehabilitation programs (including centers for independent living) supported by grants or funding from the Rehabilitation Services Administration, must be operated in compliance with Title VII of the Civil Rights Act of 1964 as amended, and Title V of the Rehabilitation Act of 1973 as amended.

M. Affirmative Action Plan. LRS will take affirmative action to ensure that the following will be implemented at all levels of administration: recruit, hire, place, train and promote in all job classifications without regard to non-merit factors such as race, color, age, religion, sex, national origin, disability or veteran status, except where sex is a bonafide occupational qualification.

N. Comprehensive System of Personnel Development. LRS will provide a comprehensive system of personnel development in accordance with the Rehabilitation Act Amendments of 1998.

O. Applicant/Client. For purposes of representation, the term applicant/client refers to an individual who has applied for independent living services or in certain cases, a parent, or family member, or guardian, an advocate, or any other authorized representative of the individual.

P. Cooperative Agreements. LRS will use services provided under cooperative agreements as comparable services and benefits.

Q. Services to American Indians with Disabilities. LRS will provide independent living services to American Indians with disabilities to the same extent that these services are provided to other individuals with disabilities which will include, as appropriate, services traditionally available to Indian tribes on reservations.

R. Misrepresentation, Fraud, Collusion, or Criminal Conduct

1. Individuals who obtain access to the services provided by LRS through means of misrepresentation, fraud, collusion, or criminal conduct shall be held responsible for the return of funds expended by LRS on the individual's behalf. Further, such actions shall result in the closure of the individual's independent living case record. Failure on the individual's part to make reparation of funds to the agency may result in legal action being taken by LRS.

2. In cases in which LRS is in possession of clear evidence of misrepresentation, fraud, collusion, or criminal conduct on the part of the individual for the purpose of obtaining services for which the individual would not otherwise be eligible, the individual's case will be referred to the Department of Social Services, Bureau of General Counsel for consultation and/or recommendation regarding judicial action. If Department of Social Services, Bureau of General Counsel determines, through reviewing case data, that the individual has obtained services through misrepresentation, fraud, collusion, or criminal conduct, a certified letter will be directed to the individual by the LRS counselor demanding payment in full of funds which have been expended by the agency on the individual's behalf. The failure of the individual to comply with the demand for reparation may result in legal action being taken on behalf of LRS.

S. Informed Choice. LRS shall provide information and support services to assist applicants and eligible individuals in exercising informed choice throughout the independent living process, consistent with the following:

1. to inform each applicant and eligible individual through appropriate modes of communication;

2. to assist applicants and eligible individuals in exercising informed choice in decisions related to the provision of assessment services;

3. to maintain flexible procurement guidelines and methods that facilitate the provision of services; and

4. to provide or assist eligible individuals in acquiring information necessary to develop the components of the Independent Living Plan.

T. Construction. Nothing in this policy manual shall be construed to create an entitlement to any independent living service.

AUTHORITY NOTE: Promulgated in accordance with the Rehabilitation Act of 1973, as amended, R.S. 49:664 Section 6B, R.S. 36:477 (c), R.S. 46:331-335, R.S. 39:1595.3 and R.S. 39:1594 (I).

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Rehabilitation Services, LR 17:891 (September 1991), amended LR 20:673 (June 1994), LR 26:2322 (October 2000).

§1503. Enabling Legislation

A. All FITAP overpayments shall be subject to collection either by recoupment or recovery with the exception of:

1. inadvertent household error claims of $250 or less; and

2. administrative error claims.

AUTHORITY NOTE: Promulgated in accordance with the Rehabilitation Act of 1973, as amended, R.S. 49:664 Section 6B, R.S.36:477(c), R.S. 46:331-335, R.S. 1595.3 and R.S. 39:1594(I).

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Rehabilitation Services, LR 26:2323 (October 2000), amended LR 27:428 (March 2001).

§1505. Confidentiality

A. General Statement. All client information is confidential. All personal information in the possession of the state agency shall be used only for purposes directly connected with the administration of the program.

B. Notification to Clients. Individuals asked to supply the agency with information concerning themselves shall be informed of the agency's need to collect confidential information and the policies governing its use, release, and access including:

1. the Consent to Release Case Record Information Form contained in case files which must document that individuals have been advised of the confidentiality of information pertinent to their case;

2. the principal purpose for which the agency intends to use or release the requested data;

3. whether individuals may refuse, or are legally required to supply the requested data;

4. any known consequence arising from not providing the requested information;

5. the identity of other agencies to which information is routinely released.

C. Release of Confidential Information

1. The case file must contain documentation concerning any information released with the individual's written consent. Informed written consent is not needed for the release of personal records to the following:

a. public assistance agencies or programs from which the client has requested services or to which the client is being referred for services under the circumstances for which the client's consent may be presumed;

b. the Louisiana Department of Labor and military services of the United States government;

c. doctors, hospitals, clinics, centers for independent living, and rehabilitation centers providing services to clients as authorized by Louisiana Rehabilitation Services;

d. schools or training centers, when LRS has authorized the service or is considering authorizing such services, and the information is required for the client's success in the program, for the safety of the client, or is otherwise in the client's best interest.

2.a. Confidential information will be released to an organization or an individual engaged in research, audit, or evaluation only for purposes directly connected with the administration of the state program (including research for the development of new knowledge or techniques which would be useful in the administration of the program).

b. Such information will be released only if the organization or individual furnishes satisfactory assurance that:

i. the information will be used only for the purpose for which it is provided;

ii. it will not be released to persons not connected with the study under consideration; and

iii. the final product of the research will not reveal any information that may serve to identify any person about whom information has been obtained through the state agency without written consent of such person and the state agency.

c. Information for research, audit, or evaluation will be issued only on the approval of the director.

d. The client must be advised of these conditions.

3. LRS may also release personal information to protect the individual or others when the individual poses a threat to his/her safety or to the safety of others.

D. Client Access to Data. When requested in writing by the involved individual or an authorized representative, clients or applicants have the right to see and obtain in a timely manner copies of any information that the agency maintains on them, including information in their case files, except:

1. medical and/or psychological information, when the service provider states in writing that disclosure to the individual would be detrimental to the individual's physical or mental health;

2. medical, psychological, or other information which the counselor determines harmful to the individual;

NOTE: Such information may not be released directly to the individual, but must be released, with the individual's informed consent, to the individual's representative, or a physician or a licensed or certified psychologist.

3. personal information that has been obtained from another agency or organization. Such information may be released only by or under the conditions established by the other agency or organization.

E. Informed Consent. Informed consent means that the individual has signed an authorization to release information and such authorization is as follows:

1. in a language that the individual understands;

2. dated;

3. specific as to the nature of the information which may be released;

4. specifically designates the parties to whom the information may be released;

5. specific as to the purpose(s) for which the released information may be used;

6. specific as to the expiration date of the informed consent which must not exceed one year.

F. Confidentiality—HIV Diagnosis. Each time confidential information is released on applicants or clients who have been diagnosed as HIV positive, a specific informed written consent form must be obtained.

G. Court Orders, Warrants and Subpoenas. Subpoenaed case records and depositions are to be handled in the following manner:

1. with the written informed consent of the client, after compliance with the waiver requirements (signed informed consent of client or guardian), the subpoena will be honored and/or the court will be given full cooperation;

2. without the written informed consent of the client, when an employee is subpoenaed for a deposition or receives any other request for information regarding a client, the employee will:

a. inform the regional manager or designee of the request;

b. contact the attorney, or other person making the request, and explain the confidentiality of the case record information; and request that such attorney or other person obtain a signed informed consent to release information from the client or guardian;

c. inform the regional manager or designee if the above steps do not resolve the situation. In this case, the regional manager or designee will then turn the matter over to the Department of Social Services' legal counsel;

3. when an employee is subpoenaed to testify in court or to present case record information in court concerning a client, the employee is to do the following:

a. notify the regional manager or designee;

b. honor the subpoena;

c. take subpoenaed case record or case material to the place of the hearing at the time and date specified on the subpoena;

d. if called upon to testify or to present the case record information, inform the court of the following:

i. that the case record information or testimony is confidential information under the provisions of the 1973 Rehabilitation Act and amendments;

ii. the subpoenaed case record information is in agency possession;

iii. agency personnel will testify and/or release the case record information only if ordered to do so by the court.

AUTHORITY NOTE: Promulgated in accordance with the Rehabilitation Act of 1973, as amended, R.S. 49:664 Section 6B, R.S.36:477(c), R.S. 46:331-335, R.S. 1595.3 and R.S. 39:1594(I).

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Rehabilitation Services, LR 26:2323 (October 2000).

§1507. Applicant/Client Appeal Rights

A. Administrative Review

1. The administrative review is a process which may be used by applicants/clients (or as appropriate the applicant's/client's representative) for a timely resolution of disagreements. However, this process may not be used as a means to delay a fair hearing conducted by an Impartial Hearing Officer. The administrative review will allow the applicant/client an opportunity for a face to face meeting in which a thorough discussion with the regional manager or designee can take place regarding the issue(s) of concern. All administrative reviews render a final decision expeditiously after receipt of the initial written request from the applicant/client.

2. All applicants/clients must be provided adequate notification of appeal rights at the time of application, development of the independent living plan, and upon reduction, suspension, or cessation of independent living services. Services will continue during the administrative review appeal process unless the services being provided under the current independent living plan were obtained through misrepresentation, fraud, collusion, or criminal conduct on the part of the client.

3. In order to insure that an applicant/client is afforded the option of availing themselves of the opportunity to appeal agency decisions impacting their independent living case, adequate notification by the counselor must include:

a. the agency's decision;

b. the basis for, and effective date of the decision;

c. the specific means for appealing the decision;

d. the applicant's/client's right to submit additional evidence and information, including the client's right to representation;

e. advise the applicant/client of the Client Assistance Program and how they can access the program, including the telephone number; and

f. the name and address of the regional manager who should be contacted in order to schedule an administrative review or fair hearing.

NOTE: All administrative reviews must be conducted in a manner which ensures that the proceedings are understood by the applicant/client.

B. Fair Hearing

1. The fair hearing is the final level of appeal within Louisiana Rehabilitation Services. Subsequent to a decision being reached as a result of the fair hearing, any further pursuit of the issue by the applicant/client (or, as appropriate, the applicant's/client's representative) must be through the public court system.

2. The fair hearing process may be requested by applicants/clients to appeal disputed findings of an administrative review or as a direct avenue of appeal bypassing the administrative review option. The fair hearing will be conducted by an impartial hearing officer.

3. An impartial hearing officer shall be selected on a random basis to hear a particular case by agreement between the Louisiana Rehabilitation Services Director and the applicant/client. This officer shall be selected from among a pool of qualified persons identified jointly by Louisiana Rehabilitation Services and members of the Louisiana Rehabilitation Council. The impartial hearing officer shall provide the decision reached in writing to the applicant/client and to Louisiana Rehabilitation Services as expeditiously as possible.

4. All applicants/clients must be provided adequate notification of appeal rights at the time of application, development of the Independent Living Plan, and upon reduction, suspension, or cessation of independent living services.

5. Services will continue during the fair hearing process unless the services being provided under the current Independent Living Plan were obtained through misrepresentation, fraud, collusion, or criminal conduct on the part of the client.

6. In order to insure that the applicant/client is afforded the option of availing themselves the opportunity to pursue a fair hearing, adequate notification by the counselor and/or regional manager must include:

a. the agency's decision (inclusive of an administrative review, if conducted);

b. the basis for, and effective date of, that decision;

c. the specific means for appealing the decision;

d. the applicant's/client's right to submit additional evidence and information, including the client's right to representation at the fair hearing;

e. advise the applicant/client of the Client Assistance Program and how they can access the program, including the telephone number; and

f. the means through which a fair hearing may be requested, including the name and address of the regional manager.

NOTE: All fair hearings must be conducted in a manner which ensures that the proceedings are understood by the applicant/client.

AUTHORITY NOTE: Promulgated in accordance with the Rehabilitation Act of 1973, as amended, R.S. 49:664 Section 6B, R.S.36:477(c), R.S. 46:331-335, R.S. 1595.3 and R.S. 39:1594(I).

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Rehabilitation Services, LR 26:2325 (October 2000).

§1509. Eligibility and Ineligibility

A. Criteria for Eligibility. To be eligible for independent living services, an applicant must be an individual:

1. with a severe physical or mental impairment which substantially limits the individual's ability to function independently in the family or community, and

2. for whom the delivery of independent living services will improve their ability to function, continue functioning, or move towards functioning independently in the family or community.

B. Determinations by Officials of Other Agencies. To the extent appropriate and consistent with the requirements of this Section, LRS will use determinations made by officials of other agencies regarding whether an individual satisfies one or more factors relating to whether an individual is an individual who has a physical or mental impairment which for such individual substantially limits their ability to function independently.

C. Compliance Provisions

1. Nondiscrimination and Nonexclusion

a. Eligibility decisions must be made without regard to sex, race, age, creed, color or national origin of the individual applying for services.

b. No group of individuals is excluded or found ineligible solely on the basis of type of disability.

c. No upper or lower age limit is established which will, in and of itself, result in a finding of ineligibility for any individual with a disability who otherwise meets the basic eligibility requirements specified in this manual.

d. Louisiana Rehabilitation Services does not impose a residence requirement. Illegal aliens, however, cannot be served.

D. Determination of Ineligibility

1. A determination of ineligibility for independent living services is made:

a. when LRS is in possession of clear and convincing evidence that an individual has no physical and/or mental impairment which substantially limits an individual's ability to function independently in the family or community; or

b. when LRS is in possession of clear and convincing evidence that an individual with a disability does not require independent living services to function independently in the family or community; or

c. when LRS is in possession of clear and convincing evidence that an individual is incapable of benefitting from independent living services, in terms of becoming more independent in the home and/or community.

2. If an individual who applies for independent living services is determined (based on clear and convincing evidence) not eligible for services, or if an eligible individual receiving services under an Independent Living Plan (ILP) is determined to be no longer eligible for services, LRS shall:

a. provide an opportunity for full consultation with the individual or, as appropriate, the individual's representative; and

b. inform the individual, or as appropriate, the individual's representative, in writing of:

i. the reason(s) for the ineligibility determination; and

ii. an explanation of the means by which the individual may express and seek a remedy for any dissatisfaction with the determination, including the procedures for review by an Impartial Hearing Officer and the availability of services from the Client Assistance Program; and

iii. a referral to any other agencies or programs from whom the individual may be eligible to receive services, including a center for independent living or other components of the statewide workforce investment system.

3. LRS shall review the applicant's ineligibility at least once within 12 months after the ineligibility determination has been made and whenever is has been determined the applicant's status has materially changed. This review need not be conducted in situations where the applicant has refused the review, the applicant is no longer present in the state, or the applicant's whereabouts are unknown.

E. Use of Existing Information. To the maximum extent appropriate and consistent with the requirement of this Section, for purposes of determining eligibility of an individual for independent living services, LRS shall use information that is existing and current (as of the current functioning of the individual), including information available from the individual, other agencies and programs.

F. Eligibility for Nursing Home Residents. Eligibility is met if independent living services rendered enables the individual to permanently leave the nursing home or to participate in other ongoing community or family activities which will enhance the quality of the individual's life outside of the facility.

AUTHORITY NOTE: Promulgated in accordance with the Rehabilitation Act of 1973, as amended, R.S. 49:664 Section 6B, R.S.36:477(c), R.S. 46:331-335, R.S. 1595.3 and R.S. 39:1594(I).

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Rehabilitation Services, LR 26:2325 (October 2000).

§1511. Information and Referral Services

A. Purpose. The purpose of an expanded system of information and referral is as follows:

1. to ensure that individuals with disabilities receive accurate independent living information to assist such individuals in functioning more independently in the family and/or community; and

2. to ensure that such individuals, as appropriate, are referred to other federal and state programs, including centers for independent living.

B. Services

1. Information

a. As appropriate, to the extent that such services are not purchased by LRS, LRS will provide the following informational services:

i. individualized guidance and counseling;

ii. assistance in locating appropriate support groups;

iii. assistance in securing appropriate community services;

iv. assistance in securing reasonable accommodations.

2. Referral

a. As appropriate, LRS will make a referral to the appropriate federal or state program, including centers for independent living, that is best suited to address the specific needs of the individual with a disability.

b. Information provided by LRS to the individual will contain:

i. a copy of the notice of the referral by LRS to the other agency carrying out the program; and

ii. information identifying a specific point of contact within the agency carrying out the program; and

iii. information and advice regarding the most suitable services to assist the individual to function more independently in the family and/or community.

AUTHORITY NOTE: Promulgated in accordance with the Rehabilitation Act of 1973, as amended, R.S. 49:664 Section 6B, R.S.36:477(c), R.S. 46:331-335, R.S. 1595.3 and R.S. 39:1594(I).

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Rehabilitation Services, LR 26:2326 (October 2000).

§1513. Comprehensive Assessment

A. Purpose

1. To make a determination of the independent living needs of the individual with a disability.

2. To make a determination of the objectives, nature, and scope of independent living services required for development of the Independent Living Plan (ILP) of an eligible individual.

B. Scope. To the extent additional data is necessary, LRS shall conduct a comprehensive assessment to determine the unique strengths, resources, priorities, concerns, abilities, capabilities, interests, and informed choice, of the eligible individual.

C. Additional Considerations

1. The comprehensive assessment is limited to information necessary to identify the independent living needs of the eligible individual and to develop the Independent Living Plan (ILP).

2. LRS will use as a primary source of information, to the maximum extent possible and appropriate, existing information obtained for the purpose of determining eligibility.

3. LRS will use, to the maximum extent possible and appropriate, information provided by the individual and/or the individual's family.

AUTHORITY NOTE: Promulgated in accordance with the Rehabilitation Act of 1973, as amended, R.S. 49:664 Section 6B, R.S.36:477(c), R.S. 46:331-335, R.S. 1595.3 and R.S. 39:1594(I).

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Rehabilitation Services, LR 26:2327 (October 2000).

§1515. Independent Living Plan (ILP)

A. Purpose. The purpose of the Independent Living Plan, hereafter referred to as ILP, and all subsequent amendments is to assure that each individual determined eligible for independent living services shall have a formal plan, jointly developed and agreed upon by the individual (or as appropriate the individual's family member or other authorized representative) and the LRS counselor.

B. Client Choice and Client Participation. The format of the ILP, to the maximum extent possible, will be in the language or mode of communication understood by the individual. Each individual's ILP will assure that the plan was developed in a manner empowering the individual with the ability to make an informed choice relative to the selection of an independent living goal, intermediate objectives, services and service providers. The client (or where appropriate, the client's parent, guardian or other representative) must sign the ILP and must receive a copy of the original ILP and amendments.

C. Mandatory Components of an ILP. An ILP shall, at a minimum, contain components consisting of the following:

1. the specific independent living goals chosen by the eligible individual, consistent with the unique strengths, resources, priorities, concerns, abilities, capabilities, interests, and informed choice of the eligible individual;

2. the specific independent living services (provided in the most integrated setting appropriate for the service and consistent with the individual's informed choice) needed to achieve the independent living goal;

3. the approximate dates for the initiation of each service and the anticipated date for the completion of each service;

4. a time frame for the achievement of the independent living goal;

5. the entity chosen to provide the independent living service and the methods to procure such services;

6. the criteria to evaluate the individual's progress towards achievement of the independent living goal;

7. the terms and conditions of the ILP, including, as appropriate, information describing:

a. responsibilities of LRS;

b. responsibilities of the eligible individual including those responsibilities the individual will assume in relation to the independent living goal;

c. if applicable, the participation of the eligible individual in paying for the costs of the planned services;

d. responsibility of the eligible individual with regard to applying for and securing comparable benefits;

e. if applicable, the responsibilities of any other entities as the result of arrangements made pursuant to comparable services and benefits;

8. the rights and remedies available to the individual through the appeals process and information regarding the availability of the Client Assistance Program.

D. Review and Amendment

1. The ILP shall be reviewed as least annually by a qualified LRS counselor and the eligible individual, or as appropriate, the individual's representative; and

2. amended, as necessary, by the individual, or as appropriate, the individual's representative, in collaboration with a LRS counselor.

E. ILP Document

1. An ILP shall be a written document prepared on forms provided by LRS.

2. An ILP shall be developed and implemented in a manner that affords eligible individuals the opportunity to exercise informed choice in selecting an independent living goal, the specific independent living services to be provided under the ILP, the entity that will provide the independent living services, and the methods used to procure the services consistent with *Informed Choice* as defined in LRS in Chapter 1, Section S of this policy manual.

3. An ILP shall be agreed to, and signed by, such individual or, as appropriate, the individual's representative; and approved and signed by a qualified counselor employed by LRS.

4. A copy of the ILP shall be provided to the individual or, as appropriate, the individual's representative, in writing; and if appropriate, in the native language or mode of communication of the individual.

AUTHORITY NOTE: Promulgated in accordance with the Rehabilitation Act of 1973, as amended, R.S. 49:664 Section 6B, R.S.36:477(c), R.S. 46:331-335, R.S. 1595.3 and R.S. 39:1594(I).

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Rehabilitation Services, LR 26:2327 (October 2000).

§1517. Financial

A. Comparable Services and Similar Benefits

1. Determination of Availability

a. Prior to providing any independent living service to an eligible individual, LRS will determine whether comparable services and benefits are available under any other program (including programs carried out under Title I, Rehabilitation Act Amendments of 1998) unless such a determination would interrupt or delay;

i. the provision of such service to any individual at extreme medical risk, with such risk documented by an appropriate Licensed Medical Professional. *Extreme Medical Risk* is defined as a risk of substantially increasing functional impairment or risk of death if services are not provided expeditiously.

2. Exceptions to Use of Comparable Services and Benefits

a. The following independent living services can be provided without making a determination of the availability of comparable services and benefits:

i. services provided through LRS' Information and Referral System;

ii. assessment for determining eligibility and independent living needs, including if appropriate, assessment by personnel skilled in rehabilitation technology;

iii. counseling and guidance (provided by LRS counselor), including information and support services to assist an individual in exercising informed choice;

iv. referral and other services needed to secure necessary services from other agencies through cooperative agreements, if such services are not available from LRS.

B. Individual's Participation in the Cost of IL Services

1. LRS will consider, through budgetary analysis of assets, income, monthly liabilities, and comparable services and similar benefits, the financial need of eligible individuals for purposes of determining the extent of the individual's participation in the costs of certain independent living services.

a. Neither a financial needs test, nor a budgetary analysis, is applied and no financial participation is required as a condition for furnishing the following independent living services:

i. assessment for determining eligibility;

ii. assessment for determining independent living needs;

iii. counseling and guidance (provided by LRS Counselor), including information and support services to assist an individual in exercising informed choice;

iv. referral and other services to secure needed services from other agencies through cooperative agreements, if such services are not available from LRS;

v. rehabilitation technology assessments.

b. A financial needs test will be applied through budgetary analysis to determine the ability of the individual to financially contribute to the cost of the following independent living services:

i. counseling services, including psychological, psychotherapeutic and related services;

ii. services related to housing or shelter, including appropriate accommodations to, and modifications of, any space used to serve, or occupied by, individuals with disabilities;

iii. rehabilitation technology;

iv. personal assistance services, including attendant care;

v. consumer information programs on rehabilitation and independent living services;

vi. supported living;

vii. transportation;

viii. physical rehabilitation;

ix. therapeutic treatment;

x. provision of needed prostheses and other appliances and devices;

xi. individual and group social and recreational services;

xii. appropriate preventive services to decrease the need of individuals receiving IL services for similar services in the future;

xiii. any other IL service available under the State Plan for Independent Living which are appropriate to the IL needs of the eligible individual.

c. An individual's status for the budget analysis will be determined as follows:

i. the agency will perform the budget analysis on the basis of the resources of both the client and the spouse if the client is married;

ii. the agency will perform the budget analysis on the basis of the resources of the family unit for all single clients living in the family home as a family member. Temporary absences from the home, such as for vacations, school, or illness, count as time lived in the home;

iii. the agency will perform the budget analysis on an individual who has returned to the family unit on the basis of the resources of only that individual if the following conditions are met:

(a). the individual's disability has precluded their obtaining or maintaining employment; and

(b). the individual has a documented history of self-sufficiency that includes providing over one-half the costs of maintaining a residence for at least one year prior to their return to the family unit; and

(c). the individual's parent(s), legal guardian, or other head of household provides documentation that indicates such person(s) do not claim the individual as an exemption for federal and/or state income tax purposes.

d. Family unit is defined as the client and the client's parents or the client and any significant other(s), such as aunts, uncles, friends, legal guardians, etc., who are living in the household and are providing support for the maintenance of the household in which the client lives. Adult siblings of the client can be excluded as a member of the family unit for income reporting; but, must also be excluded from the family unit in the determination of allowable monthly liabilities.

e. Individuals who do not provide LRS with necessary financial information to perform the budget analysis will be eligible only for those independent living services that are not conditioned upon an analysis to determine the extent of the individual's participation in the costs of such services.

f. Simultaneously with the comprehensive assessment, at the annual review of the ILP, and at any time there is a change in the financial situation of either the client or the family, the counselor will perform a budget analysis for each client requiring independent living services as listed above. The amount of client participation in the cost of their independent living program will be based upon the most recent budget analysis at the time the relevant ILP or amendment is developed.

2. State and Departmental Purchasing Procedures. All applicable state, departmental and agency purchasing policies and procedures must be followed.

a. LRS does not purchase vehicles or real estate. LRS does not renovate or remodel housing.

b. Fee Schedule. Services and rates of payment must be authorized in accordance with LRS' Medical Fee Schedule and LRS' Technical Assistance and Guidance Manual, Section 500 which lists approved service providers.

c. Approval of Service Providers

i. Any service provider approved by the agency must agree not to make any additional charge to or accept any additional payment from the client or client's family for services authorized by the agency.

ii. Relatives of independent living clients will not be approved as a paid service provider unless such individuals are professionally and occupationally engaged in the delivery of such services by offering their services to the general public on a regular and consistent basis.

d. Prior Written Authorization and Encumbrance

i. Either before or at the same time as the initiation or delivery of goods or services, the agency must be in possession of the proper authorizing document.

AUTHORITY NOTE: Promulgated in accordance with the Rehabilitation Act of 1973, as amended, R.S. 49:664 Section 6B, R.S.36:477(c), R.S. 46:331-335, R.S. 1595.3 and R.S. 39:1594(I).

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Rehabilitation Services, LR 26:2327 (October 2000).

§1519. Independent Living Services

A. Independent Living Services are time limited services described in an ILP necessary to assist an individual with a disability in their desire to achieve independence in their home/community and are consistent with the strengths, resources, priorities, concerns, abilities, capabilities, interests, and informed choice of the individual, including:

1. an assessment for determining eligibility and independent living needs by qualified personnel, including, if appropriate, an assessment by personnel skilled in rehabilitation technology;

2. counseling and guidance, including information and support services to assist an individual in exercising informed choice;

3. referral and other services to secure needed services from other agencies through cooperative agreements developed, if such services are not available from LRS;

4. independent living skills training;

5. psychological, psychotherapeutic, and related services;

6. services related to housing or shelter, including services related to community group living, and adaptive housing services (including appropriate accommodations to and modifications of any space used to serve, or occupied by, individuals with disabilities);

7. rehabilitation technology;

8. mobility training;

9. services and training for individuals with cognitive and sensory disabilities, impairments, including life skills training;

10. interpreter services provided by qualified personnel for individuals who are deaf or hard of hearing, and reader services for individuals who are determined to be blind, after an examination by qualified personnel who meet state license law;

11. personal assistance services, including attendant care and the training of personnel providing such services;

12. activities to identify appropriate housing, recreation opportunities, and accessible transportation, and other support services;

13. education and training necessary for living in a community and participating in community activities;

14. supported living;

15. transportation, including referral and assistance for such transportation and training in the use of public transportation vehicles and systems;

16. physical rehabilitation;

17. therapeutic treatment;

18. provision of needed prostheses and other appliances and devices;

19. individual and group social and recreational services;

20. training to develop skills specifically designed for youths who are individuals with disabilities to promote self-awareness and esteem, develop advocacy and self-empowerment skills, and explore career options;

21. services for children;

22. appropriate preventive services to decrease the need of individuals assisted through the Independent Living Program for similar services in the future;

23. community awareness programs to enhance the understanding and integration into society of individuals with disabilities;

24. consumer information programs on rehabilitation and independent living services, especially for minorities and other individuals with disabilities who have traditionally been unserved or underserved; and

25. such other services as may be necessary and not inconsistent with the objectives listed in the State Plan for Independent Living.

B. Scope of Services for Diagnosis and Treatment of Physical and Mental Impairments

1. LRS will not provide ongoing medical rehabilitation treatment services.

2. LRS will not provide experimental services or supplies.

AUTHORITY NOTE: Promulgated in accordance with the Rehabilitation Act of 1973, as amended, R.S. 49:664 Section 6B, R.S.36:477(c), R.S. 46:331-335, R.S. 1595.3 and R.S. 39:1594(I).

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Rehabilitation Services, LR 26:2329 (October 2000).

§1521. Conditions for Case Closure

A. Options for Closure. An individual's case can be closed at any time in the independent living process when it has been determined that:

1. the individual is not available for services;

2. the individual is ineligible;

3. appropriate planned services, expenditures and reports have been completed, and additional services are either unnecessary or inappropriate.

B. Closure as Successfully Achieving IL Goal. In order to close a case as successfully achieving an IL Goal, the case record must include:

1. documentation the client was determined eligible for services;

2. documentation the client was provided an assessment of IL potential;

3. documentation appropriate services were provided in accordance with the ILP;

4. documentation showing the basis on which the individual has met the goal of living more independently;

5. documentation the client has been informed the case is being closed as having successfully achieved IL Goal.

C. Content of the ILP for Case Closure as Ineligible. The ILP and amendments relating to the case closure in cases of ineligibility based on the decision that the individual is not capable of achieving an independent living goal, must document with clear and convincing evidence that the individual is incapable of benefiting from independent living services. Such decisions shall be reviewed and reassessed 12 months from the date of closure.

AUTHORITY NOTE: Promulgated in accordance with the Rehabilitation Act of 1973, as amended, R.S. 49:664 Section 6B, R.S.36:477(c), R.S. 46:331-335, R.S. 1595.3 and R.S. 39:1594(I).

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Rehabilitation Services, LR 26:2329 (October 2000).

Chapter 17. Grant Policy

§1701. Grant Program Policy Manual

A. LRS Grant Policy Manual, fiscal year 1995, provides uniform requirements for the Administration of Louisiana Rehabilitation Services (LRS) grants and the principles for determining costs applicable to activities assisted by LRS grants for grants to institutions of higher education, hospitals, nonprofit organizations, and state and local government.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:664.6 and R.S. 36.477.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Rehabilitation Services, LR 21:583 (June 1995).

§1703. Federal Financial Participation

A. The total federal financial participation in expenditures for construction of facilities for community rehabilitation program purposes for each year can not exceed 10 percent of LRS' allotment of Section 110 Funds for that year.

B. For each fiscal year, LRS' expenditures for rehabilitation services under the state plan, other than for construction and establishment of community rehabilitation

program facilities, will at least equal the expenditures for vocational rehabilitation services for the second prior fiscal year.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:664.6 and R.S. 36.477.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Rehabilitation Services, LR 21:583 (June 1995).

§1705. Community Rehabilitation Program

A. A Community Rehabilitation Program is a program that provides directly or facilitates the provision of one or more of the following vocational rehabilitation services to individuals with disabilities to enable those individuals to maximize their opportunities for employment, including career advancement:

1. medical, psychiatric, psychological, social, and vocational services that are provided under one management;

2. testing, fitting, or training in the use of prosthetic and orthotic devices;

3. recreational therapy;

4. physical and occupational therapy;

5. speech, language, and hearing therapy;

6. psychiatric, psychological, and social services, including positive behavior management;

7. assessment for determining eligibility and vocational rehabilitation needs;

8. rehabilitation technology;

9. job development, placement, and retention services;

10. evaluation or control of specific disabilities;

11. orientation and mobility services for individuals who are blind;

12. extended employment;

13. psychosocial rehabilitation services;

14. supported employment services and extended services;

15. services to family members if necessary to the vocational rehabilitation of the individual;

16. personal assistance services; and

17. services similar to the services described in Paragraphs 1-16 of this Subsection.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:664.6 and R.S. 36.477.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Rehabilitation Services, LR 21:584 (June 1995).

§1707. General Provisions

A. LRS will accept solicited and unsolicited grant proposals from institutions of higher education, hospitals, nonprofit organizations, and state and local governments for the establishment of Community Rehabilitation Program facilities and construction of community rehabilitation program facilities.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:664.6 and R.S. 36.477.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Rehabilitation Services, LR 21:584 (June 1995).

§1709. Establishment of Community Rehabilitation Program Facilities

A. Federal financial participation is available in expenditures for the establishment, development, or improvement of a public or nonprofit community rehabilitation program for the following types of expenditures.

1. The establishment, development, or improvement of a public or nonprofit community rehabilitation program.

2. Staffing, if necessary to establish, develop, or improve a community rehabilitation program for a maximum period of four years, with federal financial participation available at the applicable matching rate for the following levels of staffing costs:

a. 100 percent of staffing costs for the first year;

b. 75 percent of staffing costs the second year;

c. 60 percent of staffing costs the third year; and

d. 45 percent of staffing costs the fourth year.

3. Other start-up expenditures related to the establishment, development, or improvement of a community rehabilitation program that are necessary to make the program functional or increase its effectiveness not including operating expenditures of the program.

B. Federal financial participation is available in expenditures for the establishment of a facility for community rehabilitation program purposes for the following types of expenditures:

1. the acquisition of an existing building, and if necessary the land in connection with the acquisition, if the building has been completed in all respects for at least one year prior to the date of acquisition and the federal share of the cost of the acquisition is not more than $300,000;

2. the remodeling or alteration of an existing building, provided the estimated cost of remodeling or alteration does not exceed the appraised value of the existing building;

3. the expansion of an existing building, provided that:

a. the existing building is complete in all respects;

b. the total size in square footage of the expanded building, notwithstanding the number of expansions, is not greater than twice the size of the existing building;

c. the expansion is joined structurally to the existing building and does not constitute a separate building; and

d. the costs of the expansion do not exceed the appraised value of the existing building;

4. architect's fees, site survey, and soil investigation, if necessary in connection with the acquisition, remodeling, alteration, or expansion of an existing building; or

5. the acquisition of fixed or movable equipment, including the costs of installation of the equipment, if necessary to establish, develop, or improve a community rehabilitation program.

C. Funds made available to a private nonprofit agency for the establishment of a rehabilitation facility must be expended by that agency in accordance with procedures and standards equivalent to those of the state unit in making direct expenditures for similar purposes.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:664.6 and R.S. 36.477.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Rehabilitation Services, LR 21:584 (June 1995).

§1711. Construction of Community Rehabilitation Program Facilities

A. Federal financial participation is available in expenditures for the construction of a facility for community rehabilitation program purposes for the following types of expenditures:

1. acquisition of land in connection with the construction of a new building for a community rehabilitation program;

2. acquisition of existing buildings;

3. remodeling, alteration or renovation of existing buildings;

4. construction of new buildings and expansion of existing buildings;

5. architect's fees, site surveys, and soil investigation, if necessary, in connection with the construction project;

6. initial fixed or movable equipment of any new, newly acquired, newly expanded, or newly renovated buildings that are to be utilized for community rehabilitation program purposes; and

7. other direct expenditures appropriate to the construction project, except costs of off-site improvements.

B. The amount of federal financial participation in the construction of a rehabilitation facility may not be more than 50 percent of the total cost of the project.

C. Funds made available to a private nonprofit agency for the construction of a rehabilitation facility must be expended by that agency in accordance with procedures and standards equivalent to those of the state unit in making direct expenditures for similar purposes.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:664.6 and R.S. 36.477.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Rehabilitation Services, LR 21:584 (June 1995).

§1713. Financial Administration

A. Standards for Financial Management Systems. A grantee must expand and account for grant funds in accordance with state laws and procedures for expending and accounting for its own funds. Fiscal control and accounting procedures must be sufficient to:

1. permit preparation of reports required by LRS and the statutes authorizing the grant;

2. permit the tracing of funds to a level of expenditures adequate to establish that such funds have not been used in violation of the restrictions and prohibitions of applicable statutes;

3. the financial management system of the grantee must also meet the following standards:

a. Financial Reporting. Accurate, current, and complete disclosure of the financial results of financially assisted activities must be made in accordance with the financial reporting requirements of the grant;

b. Accounting Records. Grantees must maintain records which adequately identify the source and application of funds provided for financially-assisted activities. These records must contain information pertaining to grant awards and authorizations, obligations, unobligated balances, assets, liabilities, outlays or expenditures, and income;

c. Internal Control. Effective control and accountability must be maintained for all grant cash, real and personal property, and other assets. Grantees must adequately safeguard all such property and must assure that it is used solely for authorized purposes;

d. Budget Control. Actual expenditures or outlays must be compared with budgeted amounts for each grant. Financial information must be related to performance or productivity data, including the development of unit cost information whenever appropriate or specifically required in the grant agreement. If unit cost data are required, estimates based on available documentation will be accepted whenever possible;

e. Allowable Cost. Applicable OMB cost principles applicable state laws and regulations, agency program regulations, and the terms of grant agreement will be followed in determining the reasonableness, allowability, and allocability of costs;

f. Source Documentation. Accounting records must be supported by such source documentation as canceled checks, paid bills, payrolls, time and attendance records, contract and grant award documents, etc.;

g. Cash Management. Procedures for minimizing the time elapsing between the transfer of funds from the state treasury and disbursement by grantees must be followed whenever advance payment procedures are used;

4. LRS may review the adequacy of the financial management system of any applicant for financial assistance as part of a pre-award review or at any time subsequent to award.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:664.6 and R.S. 36.477.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Rehabilitation Services, LR 21:585 (June 1995).

§1715. Payment Requirements

A. If progress and/or completion of services are provided to the satisfaction of LRS, payments are to be made as specified in the contract agreement, stipulating rate or standard of payment, billing intervals, and invoicing provisions.

B. Withholding of Payments

1. Payments for proper charges incurred by grantees will not be withheld unless:

a. the grantee has failed to comply with reporting requirements; or

b. the grant is suspended.

2. Cash withheld for failure to comply with reporting requirements, but without suspension of the grant will be released to the grantee upon subsequent compliance. When a grant is suspended payment adjustments will be made in accordance with §1733.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:664.6 and R.S. 36.477.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Rehabilitation Services, LR 21:585 (June 1995).

§1717. Cost Principles

A. Recipients shall adhere to applicable cost principles dependent on its organizational type. All project costs charged to this grant will be reasonable, necessary, allowable, and allocable according to the applicable cost principles.

1. Institutions of Higher Education—OMB Circular A-21

2. Hospitals—34 CFR PART 74, Appendix E

3. Nonprofit Organizations—OMB Circular A-122

4. State, Local or Indian Tribal Government—OMB Circular A-87

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:664.6 and R.S. 36.477.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Rehabilitation Services, LR 21:585 (June 1995).

§1719. Cost Sharing or Matching

A. Nonprofit Facilities. Cost sharing or matching means the grantees share of the costs of a grant-supported project or program. The grantee's match funds must be certified as nonfederal monies and will be required up-front in the form of a check payable to LRS. LRS will then reimburse 100 percent of the grant to the grantee.

1. Percentages of matching funds are as follows:

a. establishment grant—21.3 percent cash match is mandatory;

b. construction grant—50 percent cash match is mandatory.

B. Public Facilities. Cost sharing or matching means the grantees share of the costs of a grant-supported project or program. The grantee's match funds must be certified as nonfederal monies and set-aside (dedicated) for the grant. Only cash expended after the grant's effective date and before the expiration date will be considered as grantee's match.

1. Percentages of matching funds are as follows:

a. establishment grant—21.3 percent cash match is mandatory;

b. construction grant—50 percent cash match is mandatory.

2. A cost sharing or matching requirement may not be met by costs borne by another federal grant. Costs financed by general program income shall not count towards satisfying a cost sharing or matching requirement.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:664.6 and R.S. 36.477.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Rehabilitation Services, LR 21:586 (June 1995).

§1721. Program Income

A. Program income means gross income received by the grantee directly generated by a grant supported activity, or earned only as a result of the grant agreement during the grant period. During the grant period is the time between the effective date of the award and the ending date of the award. When authorized program income shall be retained by the recipient and used for costs which are in addition to the allowable costs of the project or program but which nevertheless further the objectives of the grant.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:664.6 and R.S. 36.477.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Rehabilitation Services, LR 21:586 (June 1995).

§1723. Property

A. Title to real property and equipment acquired under a grant shall vest, upon acquisition, in the grantee.

1. Real Property. Land including land improvements, structures and appurtenances thereto, but excluding movable machinery and equipment.

a. The property shall be used for the originally authorized purpose as long as needed for that purpose. When no longer so needed, approval of the director of LRS may be requested to use the property for other purposes. Use for

other purposes shall be limited to projects or programs serving LRS' clients.

b. When real property is no longer to be used for the originally authorized purpose, the disposition instructions of LRS shall be followed. Those instructions will provide for one of the following alternatives.

i. The property shall be sold and LRS shall be paid an amount computed by multiplying the federal share of the property times the proceeds from sale. Proper sales procedures shall be used that provide for competition to the extent practicable and result in the highest possible return.

ii. The recipient can retain title. If title is retained, LRS shall be paid an amount computed by multiplying the market value of the property by the federal share of the property.

iii. The recipient shall transfer the title to an eligible nonfederal party named by LRS.

iv. The grantee shall be entitled to be paid an amount computed by multiplying the market value of the property by the nonfederal share of the property.

2. Equipment

a. Tangible personal property having an acquisition cost of $100 or more per unit.

b. Equipment shall be used by the recipient in the project or program for which it was acquired as long as needed. When no longer needed for the original project or program, the recipient shall use the equipment in other projects or programs currently or previously sponsored by LRS. When the recipient can no longer use the equipment it shall be made available to other recipients of LRS grants.

c. Disposition of Equipment. When equipment is no longer to be used in projects or programs sponsored by LRS, disposition of the equipment shall be made according to LRS property control procedures.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:664.6 and R.S. 36.477.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Rehabilitation Services, LR 21:586 (June 1995).

§1725. Equipment Management Requirements

A. Requirements for managing equipment until transfer, replacement or disposition takes place shall, as a minimum meet the following requirements.

1. Property records shall be maintained accurately. (Retention and access requirements for these records are explained in §1725).

2. For each item of equipment, the records shall include:

a. a description of the equipment including manufacturer's model number, if any;

b. an identification number, such as the manufacturer's serial number;

c. identification of the grant under which the recipient acquired the equipment;

d. information needed to calculate the federal share of the equipment;

e. acquisition date and unit acquisition cost;

f. location, use, and condition of the equipment and the date the information was reported; and

g. all pertinent information on the ultimate transfer, replacement, or disposition of the equipment.

3. A physical inventory of equipment shall be taken and the results reconciled with the property records at least once a year to verify the existence, current utilization, and continued need for the equipment. Any differences between quantities determined by the physical inspection and those shown in the accounting records shall be investigated to determine the causes of the differences.

4. A control system shall be in effect to insure adequate safeguards to prevent loss, damage, or theft of equipment. Any loss, damages, or theft of equipment shall be investigated and fully documented.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:664.6 and R.S. 36.477.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Rehabilitation Services, LR 21:586 (June 1995).

§1727. Procurement Standard

A. Code of Conduct. The recipient shall maintain a code of standards of conduct that shall govern the performance of its officers, employees or agents engaged in the awarding and administration of contracts. The code or standards shall provide for disciplinary actions to be applied for violations of the code or standards by the recipient's officers, employees, or agents.

B. The recipient's officers, employees or agents shall neither solicit nor accept gratuities, favors, or anything of monetary value from contractors or potential contractors. This is not intended to preclude bona-fide institutional fund raising activities.

C. No employee, officer, or agent of a nongovernmental recipient shall participate in the selection, award, or administration of a contract where, to his or her knowledge, any of the following has a financial interest in that contract:

1. the employee, officer, or agent;

2. any member of his or her immediate family;

3. his or her partner;

4. an organization in which any of the above is an officer, director, or employee; and

5. a person or organization with whom any of the above individuals is negotiating or has any arrangement concerning prospective employment.

D. The recipient shall follow the Louisiana Procurement Code for all purchases comprised of R.S. 39:1551-1771.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:664.6 and R.S. 36.477.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Rehabilitation Services, LR 21:587 (June 1995).

§1729. Monitoring

A. Monitoring by Recipients. Recipients shall monitor the performance of grant supported activities. They shall review each program function, or activity to assure that adequate progress is being made towards achieving the goals of the grant. A performance report will be required quarterly to be submitted to LRS. A final performance report shall be due 30 days after the termination of the grant. The performance report shall conform to any instructions issued by LRS including:

1. a comparison of actual accomplishments to the goals established for the period;

2. the reasons for slippage if established goals were not met;

3. other pertinent information including, when appropriate, analysis and explanation of unexpectedly high overall or unit costs.

B. Performance Reports under Construction Grants. Formal performance reports shall be required only if considered necessary by LRS.

C. Significant Developments between Scheduled Reporting Dates. Between the scheduled performance reporting dates, events may occur which have significant impact upon the grant supported activity. In such cases, the recipient shall inform LRS as soon as the following types of conditions become known:

1. problems, delays or adverse conditions which will materially impair the ability to attain the objective of the award. This disclosure shall be accompanied by a statement of the action taken, or contemplated, and any assistance needed to resolve the situation;

2. favorable developments which enable meeting time schedules and goals sooner or at less cost than anticipated.

D. Site Visits. Site visits will be made as necessary by LRS to:

1. review program accomplishments and management control systems;

2. provide such technical assistance as may be required.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:664.6 and R.S. 36.477.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Rehabilitation Services, LR 21:587 (June 1995).

§1731. Retention and Access Requirements for Records

A. All financial and programmatic records, supporting documents, statistical records and other records of recipients under grants shall be retained for three years after expiration date of grant.

B. Equipment Records. The retention period for the equipment records starts from the date of the equipment disposition or replacement or transfer at the direction of LRS.

C. Records for Income Transactions after Grant. LRS' requirement concerning the disposition of program income will be satisfied by applying the income to costs incurred after expiration or termination of grant support for the activity giving rise to the income. The retention period for the records pertaining to the costs starts from the end of the recipients fiscal year in which the costs are incurred.

D. Access to Record. LRS, or any of their authorized representatives, shall have the right of access to any books, documents, papers, or other records of the grantee which are pertinent to the grant. This includes records of subgrantees, contractors and subcontractors.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:664.6 and R.S. 36.477.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Rehabilitation Services, LR 21:587 (June 1995).

§1733. Programmatic Changes and Budget Revisions

A. When requesting a prior approval, grantees shall address their request to the responsible LRS grants officer. Approvals shall not be valid unless they are in writing and signed by the authorized LRS official. Within 30 days from the date of receipt of a request for approval, the approval authority shall review the request and notify the recipient of its decision.

B. Requirements for Prior Approval

1. Changes to Project Scope or Objectives. The recipient shall obtain prior approval for any change to the scope or objectives of the approved project. (For construction projects any material change in approved space utilization or functional layout shall be considered a change in scope.)

2. Changes in Key People. The recipient of a grant shall obtain prior approval:

a. to continue the project during any continuous period of more than three months without the active direction of an approved project director;

b. to replace the project director (or any other persons named and expressly identified as key project people in the grant) or to permit any such people to devote substantially less effort to the project than was anticipated when the grant was awarded.

3. Other Programmatic Changes. The following shall require prior approval except to the extent explicitly included in the project plan as approved by LRS at the time of the award:

a. transferring to a third party by contracting or other means, the actual performance of the substantive programmatic work:

i. the term *substantive programmatic work* means activities which are central to carrying out the purpose of the project, and not merely incidental.

C. Budget Revisions. The recipient of a grant having an approved budget shall obtain prior approval for any budget revision which will:

1. involve transfer of amounts budgeted for indirect costs to absorb increases in direct costs;

2. involve transfer of amounts previously budgeted between budget categories;

3. result in a need for the award of additional funds.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:664.6 and R.S. 36.477.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Rehabilitation Services, LR 21:588 (June 1995).

§1735. Contract Provisions

A. All contracts shall contain sufficient provisions to define a sound and complete agreement.

B. Contracts shall contain suitable provisions for termination by Louisiana Rehabilitation Services.

C. Audit Requirements. Circular A-128—Audits of State and Local Governments; Circular A-133—Audits of Institutions of Higher Education and other Nonprofit Institutions.

D. The grantee shall furnish LRS with three copies of an audit covering funds awarded under this contract. Such audit shall be conducted by an independent certified public accountant or the legislative auditor of the State of Louisiana. The audit shall be conducted with generally accepted auditing standards contained in the *Governmental Auditing Standards-Standard for Audit of Government Organizations Programs Activities and Functions*, issued by the United States General Accounting Office; P.L. 98-502 (Single Audit Act of 1984), the provisions of the Office of Management and Budget Circular A-128, *Audits of State and Local Government*. Nonprofit organizations should refer to the Office of Management and Budget Circular A-133. The audit shall be sent within 30 days after the completion of the audit, but no later than six months after the termination of the grant/contract.

E. Federal Assurances. Grants contracts for construction, alteration, and/or repair in excess of $2,000 must comply with the requirements of the Davis Bacon Act. (40 U.S.C. §276 A-7)

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:664.6 and R.S. 36.477.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Rehabilitation Services, LR 21:588 (June 1995).

§1737. Insurance

A. Recipients shall observe LRS' requirements and practices with respect to bonding and insurance as specified in contract agreement.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:664.6 and R.S. 36.477.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Rehabilitation Services, LR 21:588 (June 1995).

§1739. Grant Closeout

A. Each grant shall be closed out as promptly as is feasible after termination. In closing out grants, the following shall be observed.

1. Upon request LRS shall promptly pay the grantee for any allowable reimbursable costs not covered by previous payments.

2. The grantee shall immediately refund any unobligated balance of cash advance to the grantee.

3. The grantee shall submit within 30 days of the date of termination, an financial, performance, and other reports required by the terms of the grant.

B. The closeout of a grant does not affect the retention period for, or LRS' rights of access to grant records. If a grant is closed out without audit, LRS retains the right to disallow and recover an appropriate amount after fully considering any recommended disallowances resulting from an audit which may be conducted later. The closeout of a grant does not affect the grantee's responsibilities with respect to property under §1719, or with respect to any program income for which the grantee is still accountable under §1717.

C. Violation of Terms. When a grantee has materially failed to comply with the terms of a grant, LRS may suspend the grant in whole or in part. The notice of suspension will state the reasons for the suspension, any corrective action required of the grantee, and the effective date. Suspensions shall remain in effect until the grantee has taken corrective action satisfactory to LRS or given evidence satisfactory to LRS that such corrective action will be taken or until LRS terminates the grant. New obligations incurred by the grantee during the suspension period will not be allowed unless LRS expressly authorizes them in the notice of suspension or an amendment to it. Necessary and otherwise allowable costs which the grantee could not reasonably avoid during the suspension period will be allowed if they result from obligations properly incurred by the grantee before the effective date of the suspension and not in anticipation of suspension or termination.

D. Termination for Cause. LRS may terminate any grant in whole or in part, at any time before the date of expiration, whenever LRS determines that the grantee has materially failed to comply with the terms of the grant. LRS shall notify the grantee in writing of the determination and the reasons for the termination together with the effective date. (All notification for termination shall be given 30 days prior to the effective termination date.)

E. Termination on Other Grounds. Grants may also be terminated in whole or in part only as follows:

1. by LRS with the consent of the grantee, in which case the two parties shall agree upon the termination conditions, including the effective date and in the case of partial terminations, the portion to be terminated; or

2. by the grantee, upon written notification to LRS, setting forth the reasons for such termination, the effective date, and in the case of partial terminations, the portion to be terminated.

F. Termination Settlements. When a grant is terminated, the grantee shall not incur new obligations for the terminated portion after the effective date, and shall cancel as many outstanding obligations as possible. LRS will allow full credit to the grantee for the federal share of the noncancelable obligations properly incurred by the grantee prior to termination.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:664.6 and R.S. 36.477.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Rehabilitation Services, LR 21:588 (June 1995).

Chapter 21. Randolph-Sheppard Trust Fund Policy

§2101. Program Profile

A. Mission. To provide for the enhancement of programs for persons who are licensed and permitted through the Randolph-Sheppard Business Enterprise Program.

B. Program Administration

1. The administration of the fund shall be exercised by Louisiana Workforce Commission, Louisiana Rehabilitation Services.

2. The Blind Vendors Trust Fund Board shall actively participate with the agency in the following: promulgating policies, procedures, standards, rules and regulations; monitoring, evaluating, reviewing the development and quality of services and programs funded through the fund; and developing an annual list of potential vending locations on state, federal, or other property.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:3041-23:3045.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Rehabilitation Services, LR 22:119 (February 1996), amended by the Workforce Commission, Rehabilitation Services, LR 41:2179 (October 2015).

§2103. Enabling Legislation

A. Senate Bill No. 676, Act 1285 of the 1995 Regular Session, Chapter 49 of Title 46 of the Revised Statutes 46:2641 through 2645.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:2641-2645.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Rehabilitation Services, LR 22:119 (February 1996).

§2105. Definitions

Agency—Louisiana Rehabilitation Services of the Office of Workforce Development within the Louisiana Workforce Commission, which licenses blind vendors.

Blind Enterprise Program—the services available to establish business enterprises and other similar programs for persons who are blind as provided in the Randolph-Sheppard Act.

Blind Vendors—those individuals who are classified under state and federal regulations as legally blind and who are licensed to and have a permit to operate vending facilities on state, federal, or other property.

Board—the Blind Vendors Trust Fund Advisory Board.

Department—the Department of Social Services.

Director—the director of Louisiana Rehabilitation Services.

Fund—the Blind Vendors Trust Fund.

Randolph-Sheppard Act—the federal law which enables the Blind Enterprise Program under the authority of 20 U.S.C. 107 et seq.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:3041-23:3045.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Rehabilitation Services, LR 22:119 (February 1996), amended by the Workforce Commission, Rehabilitation Services, LR 41:2180 (October 2015).

§2107. Blind Vendors Trust Fund Board

A. The Blind Vendors Trust Fund Board shall be composed of nine members as follows:

1. the director of Louisiana Rehabilitation Services or his or her designee;

2. eight members of the Louisiana Blind Vendors Elected Committee.

B. The board shall be domiciled in East Baton Rouge Parish.

C. The board shall meet at least once in each quarter of the fiscal year and as often as necessary thereafter as deemed by the chairman.

D. A majority of the individuals appointed to the board shall constitute a quorum.

E. Members shall serve without compensation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:3041-23:3045.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Rehabilitation Services, LR 22:119 (February 1996), amended by the Workforce Commission, Rehabilitation Services, LR 41:2180 (October 2015).

§2109. Blind Vendors Trust Fund Revenues

A. The Blind Vendors Trust Fund shall consist of monies collected from certain vending machines located on state,

federal, and other property pursuant to the Randolph-Sheppard Act.

B. The fund may receive monies from any source.

C. The legislature may make annual appropriations to the trust fund.

D. All unexpended and unencumbered monies remaining in the fund at the close of each fiscal year shall remain in the fund.

E. Monies in the fund shall be invested by the state treasurer in the same manner as monies in the state general fund.

F. All interest earned from the investment of monies in the fund shall be deposited in and remain to the credit of the fund.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:2641-2645.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Rehabilitation Services, LR 22:119 (February 1996).

§2111. Expenditures

A. The monies in the fund shall be used solely for programs to provide services for the Blind Enterprise Program established in Louisiana pursuant to the Randolph-Sheppard Act.

B. Money in the trust fund from vending machines located on federal property shall be distributed for the primary purpose of the establishment and maintenance of retirement or pension plans, for health insurance, and contributions for the provisions of paid sick leave and vacation time for blind vendors, if approved by majority vote of blind vendors licensed by the agency after the agency has provided to each vendor information on all matters relevant to such purposes.

C. Income not expended for the primary purpose shall be used for the maintenance and replacement of equipment, the purchase of new equipment, management services, and securing a fair return to vendors, or as provided by state and federal guidelines with the active participation of the Blind Vendors Trust Fund Board.

D. Money in the trust fund from vending machines located on state-owned property or on property leased by the state agency, or on other property shall be distributed for any purpose consistent with the Randolph-Sheppard Program as may be determined by the state licensing agency with the active participation of the Blind Vendors Trust Fund Board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:3041-23:3045.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Rehabilitation Services, LR 22:120 (February 1996), amended by the Workforce Commission, Rehabilitation Services, LR 41:2180 (October 2015).

§2113. Financial Reports

A. The director of Louisiana Rehabilitation Services or his designee shall arrange for full and accurate financial records to be maintained in compliance with law and shall make a full and complete report to the board annually.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:3041-23:3045.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Rehabilitation Services, LR 22:120 (February 1996), amended by the Workforce Commission, Rehabilitation Services, LR 41:2180 (October 2015).

§2115. General Requirements

A. Nondiscrimination. All programs administered by and all services provided by the agency shall be rendered on a nondiscriminatory basis without regard to race, creed, color, age, religion, sex, national origin, disability, ethnicity, or status with regard to public assistance in compliance with all appropriate state and federal laws and regulations.

B. Civil Rights and Equal Employment Opportunities with Regard to Employees or Agencies Delivering Services. Title VI of the Civil Rights Act of 1964, as amended, prohibits discrimination because of race, color, or national origin; Title V of the Rehabilitation Act of 2973, as amended, and Title I of the Americans with Disabilities Act PL 101-336 prohibit discrimination because of disabling condition. The provisions of these acts apply to services and programs administered by Louisiana Rehabilitation Services.

C. Compliance with State and Federal Laws and Regulations, and Departmental Policies and Procedures. All agencies and staff involved in the Blind Vendors Trust Fund shall comply with all state and federal laws, including the Louisiana Workforce Commission policies and procedures as well as civil rights rules and regulations, as applicable.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:3041-23:3045.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Rehabilitation Services, LR 22:120 (February 1996), amended by the Workforce Commission, Rehabilitation Services, LR 41:2180 (October 2015).